

THE WHITE HOUSE

WASHINGTON

June 7, 1993

MEMORANDUM FOR SHEILA ANTHONY

FROM: HOWARD PASTER *HP*

SUBJECT: JUSTICE DEPARTMENT COMMENTS ON LOBBY REFORM BILL

OMB has shared with us a copy of a draft letter from Faith Burton to the House Judiciary Committee on H.R. 823, the Lobbying Disclosure Act of 1993. This is the Bryant companion to the Levin bill that has already passed the Senate. The Vice President participated in the original press conference announcing the bill and we supported its passage in the Senate without major amendments.

Ms. Burton's letter is quite long and substantial and seeks to make new policy on a bill the Administration has been actively supporting in its present form.

While I can agree with some of Ms. Burton's suggestions, I feel quite strongly that we to narrow our comments, limiting both the scope and number of changes we propose.

Karen Hancox in our office will be happy to help. Thank you.

cc: Karen Hancox  
Gerri Ratliff  
Donsia Strong ✓

*Handwritten notes:*  
L.A. - Sub 5  
W.S. Bond

*Latest Draft --  
Shows OMB  
suggested changes --  
still negotiating  
with DOJ on  
these changes,  
especially re: the  
ppts Clause*

The Honorable Jack Brooks  
Chairman  
Committee On The Judiciary  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

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

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

In addition, the bill establishes a new Office of Lobbying Registration and Public Disclosure within the Department of Justice. We believe that the Department of Justice, with its experience in administering and enforcing the Foreign Agents Registration Act (FARA) since 1942, and its experience in enforcing the Federal Regulation of Lobbying Act is uniquely qualified for the responsibility of administering and enforcing the provisions of the bill. ~~[The Department endeavored to establish, over its 51 year FARA history, evenhanded enforcement while encouraging maximum disclosure and the preservation of the right of all parties to disseminate their message.]~~

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

than the provisions of H.R. 823 as introduced, and that will compel disclosure in a timely manner.

Our first concern is that the bill cover all attempts, without regard to their frequency or magnitude, to influence any officer or employee of the Executive and Legislative Branches. This is based on the belief that a host of preliminary decisions are made at every level -- some that never reach the review of the ultimate decision maker. Any effort to exclude all but the highest ranking officials or employees could have the unintended effect of increased and undue lobbying pressures on officers and employees not covered by Section 3, since contacts with such individuals would not subject lobbyists to the registration requirements of the bill. *use of*

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

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

*exaggerated*

*AK-10/100*

the disclosure of all the principals in all lobbying efforts is essential to public awareness of all factors influencing governmental decisions.

Second, more accurate financial disclosure than that provided in Section 5 of the proposed bill should be required. Presumably, a paid lobbyist is capable of maintaining financial records adequate to meet his or her obligations to the Internal Revenue Service. The public gains little if these exact numbers are converted to estimates ranging from tens of thousands to hundreds of thousands of dollars. *On the other hand, the public benefits by knowing exactly how much money lobbyists spend.*

In addition, we believe that lobbyists should be required to disclose specific amounts for expenditures in certain crucial areas, such as, gifts, entertainment, travel and advertising. Moreover, H.R. 873 should provide for complete disclosure of grassroots activities. Very often, public servants are faced with a host of artificially generated correspondence and telephone calls. Many lobbyists expend substantial amounts of money in an attempt to suggest to those in public service that their cause or position has substantial public support. There should be separate line item disclosure of sums expended on grassroots activities and the issues advanced.

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

bill ? (noun)

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

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

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

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

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

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

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

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

*[Handwritten scribbles]*

*it's (one word)*

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

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

OK

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

Clearly erroneous

~~We do not believe that the limited review available to the Director is sufficient to obviate this constitutional problem. The arbitrary and capricious and abuse of discretion standards, devices with long histories in administrative law, do not permit the Director (nor, by extension, the Attorney General) to substitute his judgments for those of the administrative law judge. Review under the arbitrary and capricious standard, for example, is limited to only "whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The (Director) is not empowered to substitute [his] judgment for that of the [ALJ]" Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971) (citations omitted). Because the ALJs' judgments would therefore still be beyond the Director's supervision and control, we are not persuaded that administrative law judges may be appointed in the manner that the Constitution reserves for the appointment of inferior officers. Cf. Statement on Signing the Omnibus Budget Reconciliation Act of 1989, 25 Weekly Compilation of Presidential Documents 1970, 1971 (December 19, 1989) (objecting to imposition of an arbitrary and capricious standard of review for review of special master decisions by Claims Court judges as inconsistent with the~~

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

~~The right to demand the A Cl problem~~

~~requirements of Article III. Accordingly we recommend that the bill be changed to authorize the Director to overturn any civil penalty imposed by an administrative law judge under this bill if the decision is not supported by substantial evidence.~~

→ make the finding of ALJ under the bill subject to all court review by the Director

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

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

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

In summary, we support the laudable goals of H.R. 823, and believe that the bill should be modified as suggested above so as better to meet its stated objectives.

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

Sincerely,

M. Faith Burton  
Acting Assistant Attorney General

MEMORANDUM

TO: Donsia Strong  
FROM: Peter Levine  
DATE: March 18, 1993  
RE: Canadian Lobbying Registration Forms

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There are two Canadian lobbying registration forms -- one for outside lobbyists and one for in-house lobbyists. Copies of the two forms are attached.

Under the Canadian law, outside lobbyists ("Tier I" lobbyists) are required to disclose --

- o The name of the lobbyist and the lobbying firm;
- o The name of the client, the principal representative of the client with whom the lobbyist deals, and parents or subsidiaries of the client;
- o General subject areas that are the subject of the lobbying.

In-house lobbyists ("Tier II" lobbyists) are required to disclose only the name of the lobbyist and the name and address of the employer.

The Canadian law does not require any disclosure of --

- o The specific issues that were the subject of significant lobbying efforts;
- o The agencies or committees contacted by the lobbyist; or
- o How much the lobbyist spent (or received) for lobbying.

In short, the Canadian law (which was enacted just a few years ago) requires far less disclosure than the Lobbying Disclosure Act. I am not aware of any other country which has a lobbying registration law at all, although I understand that the British Parliament was considering adopting such a law last year.

CANADIAN LOBBYING REPORT FORM

TIER I LOBBYISTS REGISTRATION

This information is collected under the authority of the Lobbyists Registration Act (R.S.C. 1985, c. 42) and is subject to the Access to Information Act (R.S.C. 1985, c. 30).

Table with 2 columns: DATE, OCC. For lobbyist and client.

RETURN (Please type or print in a legible manner.)

A. Individual

Form for individual registration with fields for Surname, Given names and initials, Title, Legal name of your firm, Your business address, Province, Postal code, Country, Telephone no, Facsimile no.

B. Client

Form for client registration with fields for Legal name of corporation, organization or person on whose behalf you lobby, Address, Province, Postal code, Country, Telephone no, Name of parent(s) of the client corporation, Head Office address, Name of subsidiary(ies) of the client corporation.

C. Subject-matter (See paragraph 5(2)(d) of the Act): Define the subject-matter of your undertaking by reporting one or more applicable combinations of a number, representing the area of concern, and a letter, representing the type of activity (e.g., 15A).

Form for subject-matter with checkboxes for English and French, and a grid for numbers and letters.

D. Certification

Certification section with a signature line and a statement: 'I hereby certify that the information contained in this return is true to the best of my knowledge and belief.'



Consumer and Corporate Affairs Canada

Consommation et Corporations Canada

Lobbyists Registration Branch

Direction de l'enregistrement des lobbyistes

**TIER II LOBBYISTS REGISTRATION**

**DEFINITION**  
**Tier II Lobbyist**

A Tier II lobbyist is every employee of a person or organization for whom a significant part of the duties is to communicate with public office holders, on behalf of the employer, in an attempt to influence the Government of Canada in respect of: (a) the development of a legislative proposal; (b) the introduction, passage, defeat or amendment of any bill or resolution; (c) the making or amending of any regulation; (d) the development or amendment of any policy or program; or (e) the awarding of any monetary grant, contribution or any other financial benefit. (See subsection 6(1) of the Lobbyists Registration Act.)

**INSTRUCTIONS**

A Tier II lobbyist shall file with the registrar the information requested below, not later than two (2) months after the coming into force of the Act or after first undertaking any activities described above. Within two (2) months after the end of each calendar year, a Tier II lobbyist shall provide the registrar with an updated registration.

Under subsection 6(2) of the Act, the lobbyist is required to advise the registrar in writing, as soon as practicable, of any changes in the information previously filed. Such notice should include the registration number assigned to the original return to which the changes apply. The registration number will be communicated to the lobbyist through an acknowledgement.

The termination of lobbying duties is a change in the information. A Tier II lobbyist must therefore notify the registrar of such termination.

Returns or notices may be filed by mail or delivery in person. (See subsection 3(2) of the Regulations.)

*Failure to comply with any provision of the Act, or making any false or misleading statement in any return to be filed under the Act, is subject to a fine and/or imprisonment.*

The information is collected under the authority of the Lobbyists Registration Act and will be a matter of public record. It is stored in Personal Information Bank, CCAP-PU-088.

RETURN (Please type or print in a legible manner.)

APPLICABLE YEAR: 19\_\_

**A Individual and employer information**

Surname		Given names and initials	
Title		Telephone no ( )	
Legal name of employer		Facsimile no ( )	
Address of the employer		City	
Number	Street		
Province	Postal code	Country	Telephone no ( )

**B Certification**

I hereby certify that the information contained in this return is true to the best of my knowledge and belief.

Signature of lobbyist: \_\_\_\_\_

Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

Please send completed return to:

Registrar of Lobbyists  
Consumer and Corporate Affairs Canada  
Place du Portage II, 4th Floor  
165 Hôtel de Ville Street  
Hull, Quebec  
Canada  
K1A 0C9  
(819) 953-7144  
Facsimile: (819) 953-9247

For registry use only	
DATE	or
DOC #	

THE WHITE HOUSE

WASHINGTON

April 26, 1993

MEMORANDUM FOR CIRCULATION

FROM: DONSIA STRONG  
Domestic Policy Council

SUBJECT: LOBBYING DISCLOSURE OF 1993

The Lobbying Disclosure Act of 1993 is expected to be considered for floor action in the Senate sometime this week. The House has yet to schedule a mark-up and has no plans for further hearings. DOJ will be meeting with Senate and House staff soon to express DOJ's strong support for housing the new office within DOJ.

The non-profit sector continues to lobby for relief from the registration requirements of Levin/Bryant. Their primary objective is amend the bill to conform the bill's definitions to those found in the IRS Code as applied to non-profits.

The Department of Justice also feels strongly that the definition of lobbyist should be changed. DOJ urges deleting all qualifying language found in the definition so that after the monetary threshold has been reached anyone who contacts a "covered official" would be considered a lobbyist and required to register.

Partly in response to the concerns of the non-profits, Sen. Levin's Committee Report attempts to draw a bright line as to what is considered "only incidental to"... and "not a significant part of" services provided to a client. The Committee Report provides that individuals whose lobbying activities are less than 10% of the services provided will not have to register.

DOJ does not feel that this is a sufficiently bright line. Their proposed language is attached.

Sen. Levin will never agree to a separate definition for use solely by the non-profits. He is equally unwieldy in changing the definitions to accommodate DOJ's concerns. He is open to the prospect of cutting the 10% threshold to 5%. He only objects to raising this issue on the floor.

Jack Quinn, Peter Levine of Sen Levin's staff and I have worked on alternative language that could be used to settle the issue of who is a lobbyist and whether the lobbyist need register as related to the monetary threshold. We have reached no such consensus as it

relates to DOJ's concerns.

According to the compromise, anyone who makes lobbying contacts is required to register EXCEPT:

- in-house lobbyists whose expenses  
on behalf of a particular client exceed \$1,000 semiannually or,  
on behalf of all clients exceed \$5,000 semiannually
  
- outside lobbyists whose income  
on behalf of a particular client exceeds \$1,000 semiannually or,  
on behalf of all clients exceeds \$5,000 semiannually

In reaching those threshold numbers, the non-profit sector would use its IRS filing numbers. In complying with IRS reporting requirements as to expenditures on lobbying, the non-profit sector counts only its "attempts to influence legislation" in the Legislative Branch.

Mr. Bryant's staff does not agree with the threshold numbers reached in compromise with the Senate. Mr. Bryant's staff argues that according to a GAO review requested in connection with this bill thresholds set at \$5,000 will exempt 50% of the non-profit sector. Mr. Bryant's staff is urging a threshold of about \$2,500.

We have not contacted the non-profit sector to determine whether the specifics of this particular proposal are acceptable. Sen. Levin's office has spoken with the non-profit sector generally about some of these ideas and has stated that every indication is that this proposal would be acceptable to the non-profit sector. Further, Sen. Levin would prefer that no notice as to the specifics be given.

pp 9 and 10

(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. An individual employed or retained by a lobbyist whose services are rendered in a clerical, secretarial, or in a similar or related capacity, shall not be deemed to be a lobbyist for purposes of this Act.

Section 8 of the Lobbying Disclosure Act of 1993 is amended as follows:

by deleting "\$100,000" and by inserting "the greater of \$100,000 or the total amount paid to the lobbyist to which the noncompliance relates" after the words "no more than". noncompliance.

Rationale:

Violators should never profit from their wrongdoing. Lobbyists who continually fail to comply with the provisions of S. 349 should forfeit their fee. A like provision is included in the HUD Reform Act of 1988.

Section 5(b) of the Lobbying Disclosure Act of 1993 is amended as follows:

by adding the following subsection at the end thereof:

(5) in the case in which lobbying activities conducted include grassroots lobbying communications (as described in Section 3(10)(8)), listed separately, expenditures that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

Rationale:

Very often a great deal of money is expended to artificially generate correspondence and telephone calls. This is done primarily to suggest to the public and those in public service that a particular cause or position has substantial support.

*Draft*  
**DRAFT**

Section 4 (b) of the Lobbying Disclosure Act of 1993 is amended as follows:

by adding the following subsection at the end thereof:

(7) the name, address, and principle place of business of any person or organization, other than the client, that pays the fees or expenses of the registrant or any of its employees toward lobbying activities;

(8) the name of any organization, other than the client listed pursuant to subsection (2), on behalf of whom the registrant has engaged in lobbying [activities][contacts] in connection or in concert with the lobbying [activities][contacts] conducted on behalf the client.

Rationale:

S.349 does not require disclosure of individuals or organizations who pay a lobbyist to lobby on behalf of another. The individual or organization who may be the real party at interest -- the one paying the bill -- could remain undisclosed and undetected.

Commonly lobbyists for different clients will act in concert under an assumed innocuous coalition name without ever revealing the name of the client who has an interest in a particular issue. The ad hoc coalition may have no employees or pay no salaries or fees in connection with the lobbying effort and, therefore, fail to fall within the coalition test provided in the bill. Neither the Government nor the public has any way of knowing on whose behalf the coalition was formed.

Editorials

## Gifts and Lobbyists

Rep. John Bryant (D-Texas) has introduced a bill that would prohibit Members of Congress from receiving a gift of any sort (including meals) that's worth more than \$50. Right now, the rule is that no single source may give a Member gifts worth a total of more than \$250 a year, and gifts of \$100 or less don't count toward that total. The current rule seems perfectly reasonable to us — though we wouldn't be all that upset about the \$50 limit. What does upset us is that Common Cause is so adamant about getting the gift rules changed that it's doing its best to hold up a far more important bill, introduced by Bryant and Sen. Carl Levin (D-Mich), that would force lobbyists to disclose their overall expenditures and the issues they lobbied on.

Current lobbying disclosure rules are a joke, and the Bryant-Levin bill goes a long way toward fixing them. The rules really haven't changed since 1946; they're rife with loopholes, and enforcement is practically non-existent. Practically everyone, including the lobbyists themselves, sees the need to change. But Common Cause is burned up because there are no gift-disclosure provisions in the lobby bill. Again, we don't oppose such required revelations (sunlight being the best disinfectant, etc., etc.), but the group's pique over such a minor matter should not prevent a major one from being resolved immediately.

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Michael Waldman to Leon Panetta re: Foreign Lobbying-A First Cut (1 page)	6/6/95	P5, P6/b(6)
002. memo	John Podesta and Todd Stern to POTUS re: Waldman/Reed Memo on Lobbying Reform (1 page)	4/11/95	P5
003. memo	Michael Waldman & Reed to POTUS re: Lobby Reform Initiative (6 pages)	4/10/95	P5
004. memo	Waldman & Reed to POTUS re: Lobby Reform Initiative (5 pages)	3/20/05	P5

**COLLECTION:**

Clinton Presidential Records  
 Domestic Policy Council  
 Bruce Reed (Subject File)  
 OA/Box Number: 8428

**FOLDER TITLE:**

Lobbying Reform-Memos

rs53

**RESTRICTION CODES**

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Michael Waldman to Leon Panetta re: Foreign Lobbying-A First Cut (1 page)	6/6/95	P5, P6/b(6)

**This marker identifies the original location of the withdrawn item listed above.  
For a complete list of items withdrawn from this folder, see the  
Withdrawal/Redaction Sheet at the front of the folder.**

**COLLECTION:**  
Clinton Presidential Records  
Domestic Policy Council  
Bruce Reed (Subject File)  
OA/Box Number: 8428

**FOLDER TITLE:**  
Lobbying Reform-Memos

ts53

### RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

- C. Closed in accordance with restrictions contained in donor's deed of gift.
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
- RR. Document will be reviewed upon request.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	John Podesta and Todd Stern to POTUS re: Waldman/Reed Memo on Lobbying Reform (1 page)	4/11/95	P5

**This marker identifies the original location of the withdrawn item listed above.  
For a complete list of items withdrawn from this folder, see the  
Withdrawal/Redaction Sheet at the front of the folder.**

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Bruce Reed (Subject File)  
OA/Box Number: 8428

### FOLDER TITLE:

Lobbying Reform Memos

rs53

### RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. memo	Michael Waldman & Reed to POTUS re: Lobby Reform Initiative (6 pages)	4/10/95	P5

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rs53

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THE WHITE HOUSE  
WASHINGTON

*Lobby Reform*

May 3, 1995

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: MICHAEL WALDMAN *MW*

SUBJECT: LOBBY REFORM LEGISLATION -- UPDATE

As we decide what approach to take on lobby reform, we should consider two recently introduced pieces of legislation -- both proposed since we had our lobby reform discussions last month -- that directly tie-in to the press stories that have appeared on the lobbyists' influence in the GOP Congress.

- **Disclosure of lobbyist-drafted legislation** -- Rep. George Miller has introduced legislation that would require full disclosure of the role of all non-public employees in the drafting of legislation, amendments and reports. Obviously, this capitalizes on the press reports of lobbyists drafting the Clean Water Act bill and the regulatory moratorium. (Attachment A)
- **Applying the Administration's revolving-door rules to Congress** -- A bipartisan group (Sen. McCain and Reps. Shays, Meehan, and Zimmer) has introduced legislation that would, in effect, codify the President's executive order on post-employment lobbying, and apply the same rules to Members of Congress and their top staff. This addresses the press reports of former members sitting on the committee dais and lobbying against the expatriate billionaires' tax provision.

This would be a good opportunity for us to say: "We did it, why can't Congress?" Two caveats: First, in 1993, the Office of Government Ethics (OGE) testified against similar legislation. Also, at the time, Howard Paster had strongly argued against the administration taking a position on the matter, because of congressional sensitivity. Second, the legislative proposal goes beyond our rule in one significant respect: officials would not only be barred from lobbying their own agency (our rule), but also from supervising others who lobby the agency. (Attachment B)

The House Constitutional Law Subcommittee will be holding hearings on lobby reform issues -- including lobby disclosure and the Miller bill -- on May 23. The Administration should testify, and we need to figure out who is the right person and agency.

In addition, today Rep. John Bryant filed a discharge petition on the gift ban. According to his office, United We Stand America (Perot) and Common Cause will be organizing around the country on behalf of the discharge petition.

As I have argued before, I believe we should focus on lobby reform issues where the onus is on Congress (and where recent GOP abuses have been publicized), rather than foreign lobbying of the executive branch, which is a non-sequitur that leaves the onus on us.

cc: Bruce Reed  
Carol Rasco  
Harold Ickes  
George Stephanopoulos  
Pat Griffin  
Jack Quinn  
Abner Mikva  
Rahm Emanuel  
Bill Curry  
Doug Sosnik

# ATTACHMENT A

FOR IMMEDIATE RELEASE  
April 6, 1995

CONTACT: John Lawrence  
(202)225-6065

**CONGRESSMAN GEORGE MILLER**  
(D-7-California)  
"Lobbyist Disclosure Reform"  
April 6, 1995

Kevin Phillips has called the Contract With America a "dubious mix of reforms, gimmicks and con jobs."<sup>1</sup>

I call it a "friendly corporate take-over of the Congress" because the new Republican leadership has been encouraging lobbyists to serve as *de facto* official staff in drafting and amending legislation.

I am not being naive about the existence, or the value, of lobbyists. But with the *carte blanche* provided them by the Republican leadership, lobbyists can contaminate the legislative process. And they have.

The headline in last Friday's New York Times said it all: ***BUSINESS LEAVES THE LOBBY AND SITS AT CONGRESS'S TABLE.***

*Time* magazine says that the Republican leadership "has attached its fortunes to private lobbyists, and is relying on their far-flung influence to pass its agenda."<sup>2</sup> The current edition of *Newsweek* says that lobbyists are "actually writing the bills."<sup>3</sup> *Time* and *Newsweek* have it exactly right.

Corporate representatives, individually and through coalitions like the Thursday Group, have been writing whole bills and amendments, with no public review and often without hearings, to serve their clients' narrow interests. Little wonder that the Contract With America has been described as "a triumph for business interests, who ... find themselves a full partner of the Republican leadership in shaping congressional priorities."<sup>4</sup> The arm-length relationship between lobbyist and legislator has been brazenly abandoned.

The examples are stunning.

■ A committee of lobbyists rewrites the Clean Water Act "to satisfy industry groups like the Chemical Manufacturers Association."<sup>5</sup>

■ Lobbyists, working from a Capitol office, plot the strategy and drafting of bills on regulatory reform and risk assessment.

■ A lobbyist for the Wholesale Distributors develops the strategy on the product liability bill from an office provided by Republicans.

■ A former Republican congressman is allowed to sit on the committee dais during a hearing on matters affecting his current client.

With all due respect, what the hell is going on here?

I frankly do not know what is more disturbing: that these abuses are occurring, or that the Republican leadership and membership appear unconcerned and unaware that these practices degrade the democratic process.

The American people did not vote last year to turn the legislative process over to lobbyists to rewrite our health and safety laws, our environmental laws, and our tax laws for the benefit of their corporate employers. And the Congress cannot allow this abuse to continue.

Today, I am introducing an amendment to the House rules to require full disclosure of the role of all non-public employees in the drafting of legislation, amendments, reports and other products of the legislative process.

I note that Speaker Gingrich was questioned about the substantial role of lobbyists in drafting the Contract, and replied, "As long as it's out in the open, I have no problem."

My resolution assures that lobbyists' handiwork will be "out in the open," and I think the integrity of the Congress requires that it be adopted without delay.

1. USA Today, April 5, 1995
2. March 27, 1995
3. Newsweek, April 10, 1995
4. Washington Post, March 12, 1995
5. New York Times, March 22, 1995
6. Time, April 10, 1995

IV

104TH CONGRESS  
1ST SESSION**H. RES. 132**

Amending the Rules of the House of Representatives to provide for disclosure of the source of amendments, measures, and committee reports.

---

**IN THE HOUSE OF REPRESENTATIVES**

APRIL 6, 1995

Mr. MILLER of California (for himself, Ms. DELAURO, Mr. FROST, Mr. LIPINSKI, Ms. PELOSI, Mr. POSHARD, Mrs. SCHROEDER, Mr. VENTO, and Mr. CLAY) submitted the following resolution; which was referred to the Committee on Rules

---

**RESOLUTION**

Amending the Rules of the House of Representatives to provide for disclosure of the source of amendments, measures, and committee reports.

1       *Resolved*, That (a) clause 2(1)(3) of rule XI of the  
2 Rules of the House of Representatives is amended by  
3 striking "and" before "(D)" and by adding before the pe-  
4 riod at the end the following: "(E) a disclosure of whether  
5 any part of the report or measure is written, in whole or  
6 in part, by any individual other than a Member or em-  
7 ployee of the United States and the name of each such  
8 individual".

2

1 (b) Clause 1 of rule XVI of the Rules of the House  
2 of Representatives is amended by adding at the end the  
3 following new sentence: "Any Member offering an amend-  
4 ment in the House, in the Committee of the Whole, or  
5 in any committee shall, on the demand of any Member,  
6 identify the author of all or any part of that amendment  
7 unless it was written by any Member or employee of the  
8 United States, in which case the offeror shall so state."

9 (c) Clause 2(1)(2)(A) of rule XI of the Rules of the  
10 House of Representatives is amended by inserting before  
11 the period the following: "and the chair discloses, prior  
12 to entertaining a motion to order the measure reported,  
13 the author of such measure if it was written in whole or  
14 in part by any individual other than a Member or em-  
15 ployee of the United States".

○

# ATTACHMENT B

## LOBBYING

### Lobby Reform Backers Set To File Discharge Petitions

Advocates of lobbying reform said today they are prepared to file discharge petitions in the House and try to amend unrelated bills in the Senate if "revolving door" legislation and other measures are not brought to the floor. Sen. John McCain, R-Ariz., said at a news conference he and Sen. Russ Feingold, D-Wis., were assured on the first day of the session that lobby and gift reform bills would come to the floor within a few months. "I hope that's the case," McCain said. "If not, we will use the amendment process if too long a period goes by." Reps. Dick Zimmer, R-N.J., and Marty Meehan, D-Mass., added they have been assured by Speaker Gingrich similar bills will come to the floor this session, but that they will not hesitate to file a discharge petition if that is necessary to force leaders' hands. Zimmer said supporters "know the difference" between justified delay and obstruction. Hearings are planned for late May or early June in the House Judiciary Constitution Subcommittee.

The four members and Rep. Christopher Shays, R-Conn., unveiled "revolving door" legislation that would prevent former members, staff and executive branch officials from lobbying after they leave those offices. The House version of the bill bans former members who become lobbyists from the floor, cloakroom, gym and members' dining room -- privileges given former members -- and does not allow them to donate leftover campaign funds to a federal election. The legislation would not by itself clean up the appearance of special interest access to members, but would make it more difficult for former members to "schmooze" with colleagues, Zimmer said.

The House version of the measure also would prohibit former members, top staff who were paid more than \$70,000 a year and executive branch officials from lobbying either Congress or the executive branch at all for two years. The former members and congressional staff would be banned from lobbying their former committees or members for five years. Executive branch officials could not lobby their former offices for five years. All would be prohibited from supervising lobbyists even if they did not lobby in person, and would be permanently prohibited from lobbying for foreign nationals.

The Congress Daily --- Wednesday --- May 3, 1995

THE WHITE HOUSE  
WASHINGTON

*Lobby Reform*

April 29, 1995

MEMORANDUM FOR LEON PANETTA  
GEORGE STEPHANOPOULOS

FROM: RAHM EMANUEL *RE*  
SUBJECT: Presidential Directive on Recording Lobbyists Contacts

Attached please find a proposal that Mickey Kantor would like to institute at USTR which would require all lobbyist contacts to be recorded and made public. We should consider a number of options: a) a Presidential directive ordering Mickey to institute this policy at USTR, or b) a Presidential directive to all departments ordering such a policy be adopted.

We can make a big deal of this and use it as a foundation to publicly call on Congress to pass lobbying reform and lobbying gift ban legislation.

THE UNITED STATES TRADE REPRESENTATIVE  
Executive Office of the President  
Washington, D.C. 20508

27 April 1995

MEMORANDUM FOR LAURA TYSON

FROM: MICHAEL GANTOR

SUBJECT: Maintaining a Public Record of Lobbyists that Contact  
USTR on Behalf of Foreign Governments

In an effort to increase transparency and provide the public with additional information on the activities of foreign agents, I would like to institute a policy at USTR requiring our employees to keep a record of lobbyists that contact USTR on behalf of foreign governments and entities substantially controlled by foreign governments. Under this policy, USTR employees would be required to record the name and affiliation of the agent, the foreign government represented, and the subject matter of each contact. (See attached proposed USTR Foreign Agent Contact Form.) USTR would make this information available to the public in our public reading room. The policy would only apply to agents representing foreign governments and entities substantially controlled by foreign governments, not agents representing independent foreign commercial entities.

USTR has statutory authority to implement this policy under the general powers conferred on federal agencies to promulgate rules necessary to carry on the agency's business. 5 U.S.C. §§ 551, 553. In addition, Justice Department regulations state that agencies may, "as a matter of established agency procedure," require an attorney to disclose the identity of his principal. 28 C.F.R. § 5.306(b). Although the Foreign Agents Registration Act, 22 U.S.C. §§ 611-621) requires individuals who represent "foreign principals" to register with the Justice Department when they engage in certain lobbying activities, individual meetings, letters, and telephone contacts usually are not reported.

Given the public's interest in the extent of lobbying by foreign agents on behalf of foreign governments, I encourage you to consider whether the Administration should expand this policy to cover all agencies that are contacted by foreign agents.

Let's discuss this proposal at your convenience.

Attachment

## ATTACHMENT

USTR FOREIGN AGENT CONTACT FORM**A. Instructions:**

Each USTR professional staff member must complete this form whenever he or she communicates with, or receives a communication from, a private sector agent that the staff member understands to be acting on behalf of a foreign government on a matter involving Office business. The form need not be completed for communications solely regarding publicly available information. The form must be submitted within [ ] days to the USTR Reading Room.

---

**B. Information to be Provided by USTR Employee:**

1. Name of USTR Employee:

2. Date of Contact:

3. Method of Contact: Telephone call \_\_\_\_\_  
Meeting \_\_\_\_\_  
Correspondence \_\_\_\_\_  
Facsimile \_\_\_\_\_  
Other (describe): \_\_\_\_\_

4. Name, Address, of Individual and Firm of Agent:

5. Government represented:

6. Subject Matter of Contact:

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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004. memo	Waldman & Reed to POTUS re: Lobby Reform Initiative (5 pages)	3/20/05	P5
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THE WHITE HOUSE  
WASHINGTON

December 13, 1994

MEMORANDUM FOR CIRCULATION

FROM: MICHAEL WALDMAN *MW*  
SUBJECT: LOBBY REFORM AND THE GOP FIRST DAYS

As per our discussion yesterday, attached, FYI, is a press release that was sent out by Common Cause urging the Republicans to include the gift ban on the "Congressional Accountability Act" that will be considered on the first day.

# Common

FOR IMMEDIATE RELEASE:  
Wednesday, December 7, 1994

CONTACT: Jackie G. Howell  
Lori Shinseki

## COMMON CAUSE URGES SPEAKER-DESIGNATE GINGRICH TO INCLUDE GIFT BAN PROVISIONS IN CONGRESSIONAL ACCOUNTABILITY ACT & ELIMINATE DOUBLE STANDARD TREATMENT FOR MEMBERS OF CONGRESS

Common Cause today urged House Speaker-Designate Newt Gingrich (R-GA) to ensure that the Congressional Accountability Act, designed to end double standard treatment for Members of Congress, includes the gift ban legislation passed overwhelmingly by the House of Representatives on September 29, 1994.

"The Congressional Accountability Act in its current form says to the American people that Congress is going to be covered by the same rules that exist for the executive branch, with one major exception: freebies from lobbyists for Members of Congress will be allowed to continue," Common Cause President Fred Wertheimer wrote in a letter delivered to Speaker-Designate Gingrich today and sent to all Representatives elected to serve in the 104th Congress.

In addressing the House Republican Conference on December 5, Speaker-Designate Gingrich stated, "[People] want us to be a Congress with integrity."

"That is true," Wertheimer wrote. "It is also true that in order to achieve 'a Congress with integrity,' you must effectively address the unfinished reform agenda from the last Congress: campaign finance reform, lobby reform and gift ban legislation."

"The first opportunity to address the influence money scandal will occur on the opening day of the 104th Congress when the House is scheduled to act on the Congressional Accountability Act," Wertheimer wrote. "The purpose of this legislation is to ensure that the rules that apply to others also apply to Congress -- that there is no double standard treatment for Members of Congress."

"There is a glaring exception in the legislation, however, in that it fails to apply to Members of Congress and their staff the much tougher executive branch ethics rules restricting gifts from lobbyists and others," according to the Common Cause letter. "In the last Congress, with gift ban legislation expected to be enacted in another bill, its absence from the Congressional Accountability Act was not an issue. It is now, given that the gift ban legislation was killed in the closing days of the last Congress by congressional Republicans."

"As a result, lobbyists and others will continue to provide gifts and pay for meals, entertainment and vacation trips for Members of Congress and their staff," Wertheimer wrote. "In order to address this influence money problem and to eliminate double standard treatment for Members of Congress, Common Cause strongly urges you to ensure that the Congressional Accountability Act includes the gift ban provisions passed overwhelmingly by the House on September 29, 1994."

"As the incoming Speaker, and as a Member who for years has described the House of Representatives as a corrupt institution, there is no way you can credibly achieve your stated goal of reforming the House unless you deal with the influence money scandal in Congress," Wertheimer wrote.

A copy of the Common Cause letter is attached.

# # #

# Common Cause

2030 M STREET, NW • WASHINGTON, D.C. 20036-3380 • PHONE: (202) 833-1200 • FAX: (202) 659-3716

EDWARD S. CABOT  
*Chairman*

FRED WERTHEIMER  
*President*

ARCHIBALD COX  
*Chairman Emeritus*

JOHN W. GARDNER  
*Founding Chairman*

December 7, 1994

Speaker-Designate Newt Gingrich  
2428 Rayburn House Office Bldg.  
Washington, D.C. 20515

Dear Speaker-Designate Gingrich:

In addressing the House Republican Conference on December 5, you stated, "[People] want us to be a Congress with integrity."

That is true.

It is also true that in order to achieve "a Congress with integrity," you must effectively address the unfinished reform agenda from the last Congress: campaign finance reform, lobby reform and gift ban legislation.

As you know, it was congressional Republicans who blocked action in the closing days of the last session on these institutional reforms which are of fundamental importance to restoring the integrity of Congress.

As the incoming Speaker, and as a Member who for years has described the House of Representatives as a corrupt institution, there is no way you can credibly achieve your stated goal of reforming the House unless you deal with the influence money scandal in Congress.

The first opportunity to address the influence money scandal will occur on the opening day of the 104th Congress when the House is scheduled to act on the Congressional Accountability Act.

The purpose of this legislation is to ensure that the rules that apply to others also apply to Congress -- that there is no double standard treatment for Members of Congress. There is a glaring exception in the legislation, however, in that it fails to apply to Members of Congress and their staff the much tougher executive branch ethics rules restricting gifts from lobbyists and others.

The Congressional Accountability Act in its current form says to the American

people that Congress is going to be covered by the same rules that exist for the executive branch, with one major exception: freebies from lobbyists for Members of Congress will be allowed to continue.

Common Cause strongly supported the Congressional Accountability Act in the last Congress authored by Representatives Chris Shays (R-CT) and Dick Swett (D-NH). We believe it is essential to end double standard treatment for Members of Congress.

In the last Congress, with gift ban legislation expected to be enacted in another bill, its absence from the Congressional Accountability Act was not an issue. It is now, given that the gift ban legislation was killed in the closing days of the last Congress by congressional Republicans.

As a result, lobbyists and others will continue to provide gifts and pay for meals, entertainment and vacation trips for Members of Congress and their staff.

In order to address this influence money problem and to eliminate double standard treatment for Members of Congress, Common Cause strongly urges you to ensure that the Congressional Accountability Act includes the gift ban provisions passed overwhelmingly by the House on September 29, 1994.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Wertheimer", with a long horizontal flourish extending to the right.

Fred Wertheimer  
President

*Lobby Reform*

THE WHITE HOUSE  
WASHINGTON

February 8, 1995

MEMORANDUM FOR WHITE HOUSE STAFF

FROM:

ABNER J. MIKVA *AM*  
COUNSEL TO THE PRESIDENT

CHERYL MILLS *CM*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT:

Presidential Legal Expense Trust

On Friday, February 3, 1995, the Presidential Legal Expense Trust made the first of its biannual reports regarding the amounts that members of the public have contributed to the Trust to defray the costs of the President's and First Lady's legal expenses. In light of this public report, we wanted to take this opportunity to remind you of the limits of your activities with regard to inquiries you may receive.

The Trust is a private entity, wholly independent from the White House. Therefore, as a federal employee, you may not:

- o solicit contributions to the Trust, or
- o give contributions to the Trust.

If you receive inquiries regarding the Trust, you should direct them to:

Presidential Legal Expense Trust  
Department 70  
Washington, D.C. 20055-0070  
(202) 463-8423 (telephone)  
(202) 463-8426 (fax)

If an individual forwards a letter of inquiry or contribution to you for the President, please forward it to Cheryl Mills, OEOB Room 128, in the Counsel's Office.



## THE SECRETARY OF THE TREASURY

WASHINGTON

April 2, 1993

## MEMORANDUM FOR PRESIDENT CLINTON

FROM: SECRETARY BENTSEN

SUBJECT: Deduction for Lobbying Expenses;  
Treatment of Medical Equipment Under Investment Tax Credit

This memorandum follows up on my memorandum to you of March 19 regarding certain tax matters by providing further detail on two issues: the lobbying expense deduction and the treatment of high-tech medical equipment under the investment tax credit. I understand through staff-to-staff communications that you have asked for additional information on these issues.

1. Lobbying Expenses

The Administration has proposed denying the deduction for lobbying expenses. In its current form, the proposal applies to expenses incurred in attempts to influence legislation. It does not apply to attempts to influence regulations, adjudications, and other executive branch actions. The rule does apply, however, to lobbying the executive branch as well as the legislature on legislative issues.

The issue has been raised concerning how closely the lobbying expense deduction proposal should track the Administration's 5-year lobbying ban for certain political appointees. In addition, consideration should be given to coordinating the lobbying deduction denial with the campaign finance reform proposal. The discussion below reviews these issues.

a. Consistency of the Proposal with the 5-Year Lobbying Ban for Appointees

It has been suggested that the lobbying deduction denial rule should track the 5-year lobbying rule as closely as possible. As currently structured, however, there are significant differences between the tax proposal and the 5-year lobbying ban. First, the lobbying deduction denial rule is broader than the 5-year lobbying ban in that it applies to lobbying of any executive branch agency and the legislative branch on legislative issues, whereas the 5-year lobbying ban applies only to lobbying of the agency for which the relevant official formerly worked. On the other hand, the deduction denial rule is narrower than the 5-year ban in that it does not apply to lobbying on regulatory matters, while the lobbying ban does. I believe that these differences are appropriate, for several reasons.

First, while both rules are concerned with reforming government, they serve different purposes. The 5-year lobbying ban was promulgated because of concerns about executive

-2-

branch officials profiting from their government contacts after they leave office. It therefore covers lobbying by high-level officials of the executive branch who are likely to be able to take advantage of the "revolving door." It is thus limited to contacts by a relatively small class of officials with their former agency.

In view of the possible influence that the officials covered by the 5-year lobbying ban could have on decisions of lower-ranking officials in their former agency, it is appropriate that it apply to virtually all contacts with that agency, with very limited exceptions. Thus it applies to contacts concerning regulatory issues as well as legislation. In addition, since (1) the class of officials covered is fairly small, (2) such officials (by definition) are familiar with the practices of their former agency, and (3) the rule has only a limited duration (5 years), it is not excessively burdensome to ask these officials covered to cope with any complexities involved in applying the rule and the limited exceptions that are provided.

The deduction denial proposal, by comparison, is intended to reduce undue political influence on the policymaking process. It seems reasonable to apply this rule to any contacts concerning legislation, with all executive branch agencies as well as the legislative branch. However, some regulatory or administrative matters neither involve policy decisions in any significant sense (e.g., technical applications of existing law) nor involve the participation of officials who are subject to significant political pressure (e.g., day-to-day activities of most executive branch employees). We carefully considered whether to apply the deduction denial proposal to regulations with a significant policy content. It is, however, very difficult to draw sensible lines on regulatory actions by government agencies with different missions and rule making practices. Moreover, many contacts with the executive branch are either mandatory (e.g., audits of tax returns, license approvals) or are encouraged by the Administrative Procedure Act.

For these and other reasons, significant exceptions would have to be developed to apply the deduction denial rule to contacts concerning administrative action. However, since the practices of various agencies differ widely, any such exceptions would inevitably be quite complex. While similar complexity might be acceptable for the 5-year lobbying ban, it is a greater problem for a rule of tax law that would have to be applied by many thousands of taxpayers. The problem of complexity would be exacerbated if the rule were to apply to contacts with state officials concerning administrative action (the rule as currently contemplated does apply to contacts with state officials concerning legislation.)

In view of the different purposes of the lobbying ban and the deduction denial rule and the need for the deduction denial rule to be relatively simple for the sake of administrability, I believe that there are good reasons for the two rules to differ in the ways described above. Thus, I would not recommend any changes to the deduction denial rule at this point.

I might add that the lobbying deduction proposal, in its current form, is consistent with statements you made during and after the campaign. Both during the campaign and after the

election you provided only the broad outlines of your lobbying reform plan. Generally, however, your statements appear to refer to a current tax rule allowing businesses a deduction for attempts to influence legislation. For example, *Putting People First* states that "To help put government back in the hands of the people, we will ask Congress to eliminate the tax deductions for special interest lobbying expenses." Your statement in the State of the Union speech in February again referred to eliminating the deduction for lobbying only in broad terms, as did your follow-up speeches around the country. We found no statements indicating that the lobbying deduction proposal would extend to the executive branch.

b. Coordination with the White House on Campaign Finance Reform

We have been coordinating the lobbying deduction proposal with the campaign finance reform proposal. The lobbying deduction denial is different from the campaign finance reform proposal in certain respects for much the same reason it differs from the 5-year lobbying ban, i.e., in certain respects the rules serve different policies. The Treasury staff has consulted with Michael Waldman, Special Assistant to the President for Policy Coordination, and Donsia Strong, Special Policy Analyst, Domestic Policy Council, who are working on the campaign finance reform proposal at the White House. They have raised no objection to differences in the rules for the tax deduction denial and for lobbying registration. Jack Quinn, Counsel to the Vice President, also told the Treasury staff he sees nothing inconsistent with the proposals.

2. Treatment of High-Tech Medical Equipment Under the ITC

The issue has been raised whether high-tech medical equipment should be eligible for the investment tax credit (ITC) under the Administration's proposals.

As you know, as announced, the Administration's ITC proposals (flat and incremental) would generally apply to property eligible for the ITC prior to 1986, although the Treasury Department's summary of revenue proposals deliberately leaves room to exclude additional categories of property. Prior to 1986, high-tech medical equipment would have been eligible for the ITC, like most other tangible personal property.

Even if high-tech medical equipment were eligible property, such equipment would be ineligible for the ITC if owned by a tax-exempt institution such as a hospital or government. In addition, it is anticipated that the ITC for any leased property would be allowed only to the lessee. Accordingly, high-tech medical equipment leased to exempt institutions would not generate a credit<sup>1</sup>. Thus, this debate involves the ITC treatment of high-tech medical equipment owned and used by or leased to private taxpayers.

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<sup>1</sup> High-tech medical equipment leased by tax-exempt institutions is afforded favorable depreciation treatment by current law. Repealing this rule would raise \$27 million in FY 97 and \$123 million during the 1993-98 budget window.

THE WHITE HOUSE

WASHINGTON

April 29, 1993

MEMORANDUM FOR CIRCULATION

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

SUBJECT: LOBBYING DISCLOSURE ACT OF 1993

The Lobbying Disclosure Act of 1993, S.349, may be scheduled for Senate floor action as soon as Tuesday, May 4. However, if Sen. Stevens of Alaska, who will be offering an amendment, travels to Russia next week, floor action will be scheduled the following week.

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

We are discussing the possibility of including four largely noncontroversial amendments in Sen. Levin's manager's amendment. These amendments are the result of extensive consultations with Department of Justice, OMB, agencies and White House staff:

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

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

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

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

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

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

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

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

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

Sen. Wellstone is expected to offer an amendment to the Levin bill requiring gift, travel and entertainment disclosure.

Sometime in the near future the Department of Justice will be negotiating on the House side for amendments it would like with respect to enforcement and to build up support for keeping the new office within DOJ. There is some sentiment in the House to locate the new lobby office somewhere other than DOJ. Webb Hubbell is aware of this effort and may be personally involved.

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

# Bryant to Offer Bill Severely Limiting Gifts

By Tim Curran

The chairman of the House Judiciary subcommittee on administrative law and governmental relations said last week he will offer legislation to limit to \$50 the value of gifts Members of Congress may accept from any source in a year. The current limit is \$250.

The \$50 limit is currently in effect for the executive branch, and the proposal, by Rep. John

*The measure, if passed, would break the impasse with Common Cause over the broad lobbyist disclosure bill.*

Bryant (D-Texas), is aimed at breaking a stalemate with reform groups over a broader bill to force more extensive disclosure by lobbyists of gifts given to Members and staff.

That bill, introduced by Bryant and Sen. Carl Levin (D-Mich), forces lobbyists to disclose their overall expenditures and the issues they lobbied on, but not to itemize the Members to whom they have given gifts. Nor are Members themselves required to make such disclosure.

Common Cause, the good-government lobbying group, has been insisting that gift disclosure rules be included in the Bryant-Levin legislation, and the organization and others have mounted an effort to block the bill.

But Common Cause would be satisfied if Bryant's proposal to restrict gifts to \$50 went into effect — even if no disclosure is required — and would drop its opposition to the broader bill.

Under the executive branch rule, gifts or meals are limited to \$20 each, with an overall limit of \$50 per year from any one source. That's what Bryant said he will offer.

The problem has been that, while Levin and Bryant both back strict limits on gifts, they can't attach the measure to the current lobbying legislation since the Senate Rules and Administration Committee and the House Rules Committee have jurisdiction over gifts, not the House Judiciary and Senate Governmental Affairs Committees.

But Bryant can introduce the gift limit as a freestanding bill.

Members in both chambers can now accept a total of up to \$250 in gifts from any one source per year, but gifts of less than \$100 are not counted against that limit. There are no limits on gifts of travel, entertainment, and meals that can be given to Members. No gifts that fall within the \$250 limit are required to be disclosed.

At Wednesday's hearings on the lobbying disclosure bill, Bryant spoke of his support for a strict gift limit, saying, "The House leadership has a review underway to do that very thing."

Bryant said he has been planning to introduce the gift legislation, but was waiting for freshman Democrats to offer their reform package. That package was revealed Wednesday, but in its final form offered no proposal for a change to the gift rules.

A source said the freshmen had considered adopting the \$50 gift standard, but that it was among the two dozen ideas rejected by the 63 first-term Democrats. The source said that many of the freshmen believed the \$50 standard was too restrictive because it

would prevent Members from accepting even things such as meals from neighbors.

That opinion is shared by many other Members, but it seems unlikely that many will feel it is worth the political risk of opposing a reduction in the gift threshold.

Still, the hardest part in passing a gift rule change may be getting it to the floor.

Levin has also talked to the Senate Rules and Administration chairman, Sen. Wendell Ford (D-Ky), about changing

Continued on page 16

## Bryant Wants Gift Limit Slashed From \$250 to \$50

Continued from page 3

the gift standard. Ford was not available to comment.

The broader Bryant-Levin disclosure bill would shift responsibility for lobbying and foreign-agent registration to a new Justice Department office that would also be in charge of enforcing the bill's provisions, creating a universal disclosure form, and requiring twice-a-year reports of expenses and activities by lobbyists.

Backers say the bill would broaden and toughen registration of professional lobbyists, where only a small fraction now com-

ply with reporting requirements. Current lobbying disclosure rules have undergone little change since 1946 and are almost universally seen as rife with loopholes.

The Federal Election Commission proposed in a recent letter to Bryant that he consider using the FEC instead of the Justice Department to enforce his bill's provisions, and Bryant said he is considering that proposal as well as loosening restrictions on lobbying by non-profit organizations. President Clinton sent a letter to Bryant Wednesday expressing his support for the legislation in its current form.

Bryant and Levin have both complained to anyone who will listen that Common Cause has reversed itself, from supporting the disclosure legislation last year to opposing it now over the gift provision. At Wednesday's hearings, Bryant lashed out at Common Cause senior vice president Ann McBride, accusing the group of taking "a deceptive position" and "holding out for one more thing" in the bill in an attempt to boost fundraising.

Both sides agreed that if a virtual gift ban were enacted, their dispute would come to an end, but McBride argued that until that time, the Senate Governmental Affairs and House Judiciary Committees have the jurisdiction to require disclosure of gifts from lobbyists.

"If this happens next week and makes this all moot, that's terrific," McBride said. "But that has not been our experience" with legislation of this nature.

## LOBBYING

# Panel Approves Registration, Disclosure Requirements

With President Clinton vowing to check the influence of lobbyists, a Senate committee approved legislation that would require thousands more lobbyists to register and disclose some details of their handiwork.

The Senate Governmental Affairs Committee approved the bill by voice vote Feb. 25. The legislation (S 349) aims to widen the scope of registration requirements for lobbyists and strengthen the enforcement of disclosure laws for those who lobby the federal government on behalf of a client.

But some groups argued that the measure does not go far enough in requiring disclosure.

Sponsored by panel member Carl Levin, D-Mich., the bill would replace existing statutes with a single, uniform rule requiring anyone lobbying the executive or legislative branch to register with a new Office of Lobbying Registration and Public Disclosure at the Justice Department.

Currently, only people involved primarily in lobbying members of Congress must register. There is no disclosure requirement for lobbying executive branch officials or congressional staff members. Lobbyists currently register at a variety of places, including the House, Senate, Justice Department and agency contracting offices.

S 349 seeks to streamline this process with the single office where all lobbyists would register and disclosure files would be maintained.

There are more than 8,000 registered lobbyists; bill supporters estimate that that number could triple or quadruple under the measure.

Levin characterized the measure as a "loophole-plugging bill." He said the bill would allow the public to know "who is being paid, how much and by who to lobby Congress and the executive branch for what."

Many of the loopholes that Levin was referring to date back to the Federal Regulation of Lobbying Act of 1946, which required all people hired for the principal purpose of lobbying Congress to register with the House or Senate. The act has long been consid-

**BOXSCORE**

**Bills:** S 349, HR 823 — Lobby registration.

**Latest action:** Senate Governmental Affairs Committee approved S 349 on Feb. 25.

**Next likely action:** Hearings on HR 823 in House.

**Background:** Clinton administration supports requiring more lobbyists to register.

**Reference:** 1992 Weekly Report, pp. 3792, 1858.



Levin

ered largely ineffectual. For instance, it has no enforcement mechanism.

Its authority was diminished considerably after the Supreme Court in 1954 narrowly interpreted provisions so that almost anyone could minimize lobbying reporting or avoid registration altogether.

Vice President Al Gore joined Levin, Sen. William S. Cohen, R-Maine, and Rep. John Bryant, D-Texas, on Feb. 4 to announce introduction of the legislation and to underscore the president's commitment to signing the measure.

The bill is not new. A nearly identical measure sponsored by Levin was approved by the committee in 1992 but died on the Senate calendar.

Bryant, a member of the House Judiciary Committee, introduced a companion bill (HR 823) that will be the subject of hearings in the Administrative Law and Governmental Relations Subcommittee in mid-March.

### Some Want More Detail

At the Senate markup, Alaska Republican Ted Stevens said he was disappointed that the bill would not require lobbyists to disclose where they receive the majority of their funding.

Stevens said he is "constantly ap-

proached" by lobbyists from such groups as the Audubon Society or the Wilderness Society and is unable to determine "who is paying them."

Levin told Stevens that the issue of lobbyist funding would be better brought up in separate legislation.

The public interest organization Common Cause, which strongly supported the bill last year, opposed committee passage this year. Common Cause argued that the bill needed strengthening to require disclosure of gifts or financial benefits that lobbyists give to lawmakers or to members of their staffs.

Alliance for Justice, an umbrella organization representing national civil rights groups, also argued against committee approval of the measure, saying small nonprofit organizations would be burdened by the necessity to register. The bill would exempt all lobbyists who spend less than \$1,000 on lobby-related activity in semi-annual reporting periods.

Nan Aron, executive director of the group, proposed raising the lobbying expense threshold from \$1,000 to 20 percent of a total budget of an organization or company. But Levin said that would exempt companies such as General Motors Corp. and Exxon Corp., which he said do not come near to spending 20 percent of their budget on lobbying.

The New York Times called the bill "a giant hoax" in a Feb. 25 editorial, saying it does not require enough specific detail about lobbying activities.

One committee aide said registered lobbyists tend to support the measure on the grounds that many of them have reported losing clients to lobbyists who do not register.

### Provisions

Other provisions of the measure would require lobbyists to:

- Give a semiannual report to the Justice Department revealing the income received for lobbying on behalf of a client or, if lobbying for themselves, an estimate of the amount spent on lobbying activities.

- List issues the lobbyist worked on and the federal agencies and congressional committees contacted and the amount of money spent.

- Pay civil penalties as high as \$100,000 for violations.

One difference from 1992's measure is a provision requiring the establishment of an on-line computer at the Justice Department to allow the public easy access to Federal Election Commission data. ■

By Richard Sammon

## THE LOBBYING DISCLOSURE ACT OF 1993

The Lobbying Disclosure Act of 1993 would --

- o Close loopholes in existing disclosure statutes to ensure that all professional lobbyists are registered. The new law would plug loopholes in existing law by covering all professional lobbyists, regardless whether they lobby the legislative branch or the executive branch, members of Congress or their staffs, and regardless whether they are attorneys or non-attorneys, in-house lobbyists or outside lobbyists. The only exceptions are for lobbyists who are paid less than \$1,000 to lobby in a semi-annual period, or whose lobbying is only incidental to, and not a significant part of, their jobs.
- o Replace existing lobbying disclosure laws with a single, uniform statute. The new statute would replace the Federal Regulation of Lobbying Act, the disclosure requirements of the so-called Byrd Amendment, the provisions of the Foreign Agents Registration Act (FARA) which apply to private persons and companies, and disclosure statutes applicable to lobbying of the Department of Housing and Urban Development and the Federal Energy Regulatory Commission. The provisions of the Byrd Amendment prohibiting lobbying with appropriated funds would be left intact, as would FARA provisions applicable to representatives of foreign governments and political parties.
- o Streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided. The new law would consolidate filing in a single form and a single location ("one-stop shopping"), substitute consolidated organizational filings for individual filings, and replace quarterly reports with semiannual reports. The information disclosed by registrants would include the name of each lobbyist, the identity of the client (and any foreign affiliate with a direct interest in the lobbying), the issues lobbied, the federal agencies and congressional committees contacted, and the amount of money spent. The bill would also require that this information be maintained in a form that could readily be cross-indexed with information on file at the Federal Election Commission.
- o Create a new, more effective and equitable system for administering and enforcing these requirements. The new law would create a new Office of Lobbying Registration within the Justice Department to administer the statute, require guidance to the public on how to comply, require new computer systems to enhance public access to filed materials, and avoid intrusive audits and inspections through an informal dispute resolution process. The bill would also substitute a system of administrative fines, subject to judicial review, for the existing criminal penalties (which have never been enforced).

To reform the way govt deals with its constituents  
had to point the finger

PACs

Lobbyists

Looking to blunt the hold of  
entrenched special interests

Lobbyist represent someone

Acknowledge  
Appropriateness  
of the activity

Nexus is the  
Issue

Byrd Amendment

incrementally

I. Administrations view, overall

Press in Arkansas

Looking to encourage broad participation

II. Negativeness is probably the result

of the public sense of helplessness

that special interests are heard but

the public isn't

III

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How do we get at Ad Hoc Coalition?

Sole grassroots ~~is not~~ does not trigger registration

VICE PRESIDENT AL GORE AND SENS. WILLIAM COHEN (R-MAINE) AND  
CARL LEVIN (D-MICH.) AND REP. JOHN BRYANT (D-TEXAS) NEWS  
CONFERENCE

Topic: The Lobbying Disclosure Act of 1993

Time: 2 p.m.

Location: Dirksen Building 342

February 4, 1993

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The editor of the report is Steve Ginsburg. Tim Ahmann,  
Eric Beech, Melissa Bland, Peter Ramjug and Paul Schomer also  
are available to help you. If you have questions, please call  
202-898-8345. For service problems call 1-800-435-0101.

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SENATOR CARL LEVIN (D-Michigan): Good afternoon,

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everybody. Today we are introducing the Lobbying Disclosure Act  
of 1993. The current lobbying disclosure laws are a sham and  
they are in a shambles. They are a patchwork of loopholes and  
exceptions that exempt most of the people that they're supposed  
to cover. We've done an analysis of people who lobby in this  
town, about 13,000 of them are listed in a book called  
'Washington Representatives,' and yet only about one-quarter  
of those people listed as being Washington representatives in  
fact are registered lobbyists under our laws. There are more  
holes than there is cheese.

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The main law is the Lobbying Regulation Act, and  
because of the exemptions that exist in the interpretation,  
which exclude executive branch lobbying, which have a lot of  
other loopholes and exemptions, the proportion of lobbyists that  
are registered, this little piece of the pie here, is a very  
small portion of the number of lobbyists that are in this town  
lobbying the Congress.

The public has a right to know who is being lobbied by  
whom and how much the people who are lobbying us are being paid  
to lobby. They have a right to know who is being paid to lobby  
the Congress and the executive branch. The loopholes must  
close. We in the Congress must do it. We have a chance now to

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do it because we have in the White House a president and a vice  
president who are determined to end this situation where laws  
that are supposed to govern lobbyists and require them to  
disclose who is paying them how much to lobby whom are in effect  
useless laws.

We're delighted that we have that support from the  
White House; we're particularly delighted that Vice President

Gore is with us today to express that support in person. He's an old-timer around here in the Senate, and it's a real delight and a pleasure to turn the podium over now to Vice President  
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Gore.

VICE PRESIDENT GORE: Thank you very much. Senator Levin said that he needed someone who was extremely skilled at standing stiffly behind him when he introduced this bill.

(Laughter)

But, seriously, I want to thank Senator Carl Levin and Congressman George Gekas and Senator Bill Cohen and Congressman John Bryant for inviting me to be here for the occasion of the introduction of this legislation. I just came from a meeting with President Clinton at which we discussed the reforms embodied in this legislation and the campaign finance reform

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legislation, which is a top priority for the Clinton administration in this session of Congress, and I told him that I was coming here for this occasion. And it is symbolic, but it is consciously symbolic: we want this to pass. We are committed to reforming the way our government does business, to put people first, in a phrase you may remember; we're committed to embodying that principle in legislated reforms such as those embodied in this legislation.

I might say that it is for that reason that President Clinton has already issued the toughest ethics guidelines in

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history for members of the executive branch of government. It is for that reason that we're pushing campaign finance reform and it's for that reason that we're so strongly supportive of the lobbying reforms embodied in this legislation.

We urge Congress to take action, and we commend the Congress for moving expeditiously to bring this measure before the American people. The American people want change, not just from the president but from all elected officials. We have a responsibility to the people that we represent. And it's our job to represent their interests--their families, their children, their jobs, their neighborhoods--not narrow special interests. And we're dedicating ourselves to changing the way

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government works, to make sure that we bring about meaningful reforms and restore confidence in our democracy and in the way that we do political business in our country.

Yesterday President Clinton and I met with congressional leaders to talk about moving forward with campaign finance reform. As I mentioned earlier, the president is committed to working with Congress to make real progress here. And yesterday the two of us met with workers at the Office of Management and Budget, and President Clinton made clear the marching orders that he is giving his cabinet, to tighten their

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belts, to do better with less, to get rid of wasteful perks and useless commissions.

Already we have closed down the Competitiveness

Council and shut the back door where special interests could come in to the White House for special favors. We're moving to change the way government works, to cut the bureaucracy, and evict the special interests.

So this legislation speaks to our shared responsibility; it speaks to the kind of change and the kind of government that we want to create to serve the people that we represent. It is a genuine pleasure for me to stand here today with my former colleagues and to state, on behalf of myself and

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belts, to do better with less, to get rid of wasteful perks and useless commissions.

Already we have closed down the Competitiveness Council and shut the back door where special interests could come in to the White House for special favors. We're moving to change the way government works, to cut the bureaucracy, and evict the special interests.

So this legislation speaks to our shared responsibility; it speaks to the kind of change and the kind of government that we want to create to serve the people that we represent. It is a genuine pleasure for me to stand here today with my former colleagues and to state, on behalf of myself and President Clinton, as clearly as possible, our strong support for this legislation and to urge Congress to take action and pass this legislation.

Let me say in closing that I started to mention when I said that I had just come from a meeting with President Clinton that I'm going right back to a meeting with President Clinton, and I hope my former colleagues here will forgive me for leaving before the end of the press conference. But I appreciate their courtesy in allowing me to go before the other sponsors after Senator Levin kicked the press conference off.

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So, if you will forgive me, I will make my way out. I'll take a couple quickly before I leave.

Q: There's already some indication that some of the Democrats who are now in power in Congress may not be as enthusiastic about campaign finance reforms, by eliminating PAC money and soft money from the national committee. Are you going to have to get tough on Congress and the Democrats to get these laws enacted?

VICE PRESIDENT GORE: Well, you know, the accounts, or at least--let me put it differently. Some of the accounts of the meeting yesterday on campaign finance reform I'm sure inadvertently bore little resemblance to the actual discussion that took place. There is a strong commitment on the part of the leadership in both the House and the Senate to move on campaign finance reform, as I believe there is on lobbying reform. And certainly the president is very strongly in favor of moving expeditiously on both of these measures.

And I have every expectation that campaign finance reform and lobby reform will both pass.

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Q: Mr. Vice President, do you endorse this particular bill apart from the Boren bill that would impose a five-year moratorium on post-congressional--

VICE PRESIDENT GORE: Well, they're not mutually exclusive.

Q: They are not mutually exclusive?

VICE PRESIDENT GORE: Well, I think, you know, you can embody--you can endorse the general effort of lobby reform and endorse this particular piece of legislation without opposing other measures that may also be brought forward. But I'm confining my remarks here today to this particular legislation. These senators and congressmen have worked hard to bring this legislation forward. President Clinton and I endorse it, we urge that it be passed. In doing so I am not saying that it is the only reform that we think might be advisable. But I'm not going to get into specifics about anything beyond this legislation.

Q: (Inaudible) separately from the other bill?

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VICE PRESIDENT GORE: Well, we support this legislation.

Q: What is the status of the administration's commitment to eliminating the (inaudible)?

VICE PRESIDENT GORE: Well, we support this legislation and we respect the work that has gone into this legislation. That particular measure is not a piece of this legislation, and we respect that, and we understand that in order to pass meaningful lobby reform we've got to work with the Congress. And we're enthusiastic about working with the Congress especially when we have a bipartisan piece of legislation as good as this measure is. We're just delighted that the sponsors are bringing it forward in both bodies, representing both parties, and embodying the reform thrust that President Clinton has brought to his administration. We fully expect that this will be passed, we're enthusiastically supportive of it. Thank you very much.

SENATOR LEVIN: There are a number of reasons that I'm

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optimistic that we're going to get this legislation passed. You've just heard one of those reasons: we have the strong support in the White House. We also have bipartisan support in the Congress, and we have both houses of the Congress

represented very well in terms of our committee assignments.

Last year this bill passed the Governmental Affairs Committee, was approved. My ranking Republican on my subcommittee that has jurisdiction over this bill is Senator Bill Cohen of Maine; he's been a strong supporter. Senator Cohen?

SENATOR WILLIAM COHEN (R-Maine): Thank you very much, Carl. It's perhaps the first time I've had an opportunity to stand rigidly behind the vice president. I hope I fulfilled that mission well.

I will be very brief. I think Senator Levin has outlined the basic purposes of the bill and hopefully will expound upon the provisions themselves. The goals are quite clear: uniformity, simplicity and clarity. What we have today is really a patchwork of laws and loopholes and exemptions which are confusing not only to us but to the lobbyists themselves. I think they will look forward with some enthusiasm to having the

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kind of clarity that this legislation will in fact propose.

Some years ago a book was written by John Gardner called "The Recovery of Confidence." It seems to me that that has to be the goal of this administration and this Congress. We have to recover the confidence of the American people. They want to know answers to a few simple questions: who is paying whom to lobby on behalf of them and how much are they paying? Those are very simple questions: who is doing what for whom, and how much.

This bill is designed to answer those questions. Thank you very much.

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The Reuter Transcript Report  
Gore/Congress news conference  
Feb. 4, 1993  
MORE

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VICE PRESIDENT AL GORE AND SENS. WILLIAM COHEN (R-MAINE) AND  
CARL LEVIN (D-MICH.) AND REP. JOHN BRYANT (D-TEXAS) NEWS  
CONFERENCE

February 4, 1993

(First Add)

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x x x very much.

SENATOR LEVIN: Congressman John Bryant is introducing

this bill on the House side. His subcommittee chairmanship puts him in the critical position in the House to move this legislation forward. Congressman Bryant, we're delighted you're with us.

REP. JOHN BRYANT (D-Texas): Thank you very much, Senator.

Let me say, we're here not only to announce the introduction of a bill but to announce that we intend to proceed  
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to hearings and a markup on the bill very quickly.

In the first weeks of March, I expect to have a hearing underway in the House of Representatives to try to move the bill forward.

I'd like to clarify one thing relating back to a question asked by this gentleman about the prohibition on lobbying. That would take--that prohibition, if passed, would pass in a separate bill, that relates to our ethics laws. This one relates to the behavior of lobbyists. What you're asking about would relate to the post-employment behavior of members of Congress and federal employees, and I hope that we move quickly to that one as well.

Q: (inaudible) move separately to--

REP. BRYANT: Yes.

Q: (inaudible) any attempt to join them (inaudible)?

REP. BRYANT: There'll be no attempt to join them.

Let me say that what we have before you today is the first and most dramatic attempt, perhaps in history, to really  
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put on the books a serious effort at allowing the public to understand what goes on in the halls of Congress with regard to lobbying, and allowing the public to understand who is paying for what and how much is being spent.

It's also an attempt to make that reporting thorough, because at the conclusion of this legislative effort, if passed and signed by the president, the public will be able to go to one place, look under the filing system of one statute, and determine immediately what lobbyist is receiving what sum of money from which special interest group and how much is being spent.

I think it's a wonderful thing that the president of the United States and the vice president of the United States have taken this seriously enough to actually come here today and to add a stimulus to our efforts to draw the attention of the House and the Senate to this, and to move it forward for quick passage.

I'm simply here to add to the, I think the statement that was made by Senator Levin, that we're serious about it, we plan to move forward rapidly, and I'm delighted to be able to say that both Senator Levin and I are proceeding with the

bipartisan support of the ranking Republican members of our  
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subcommittee as well, and in my case, my long-time colleague,  
Congressman George Gekas of Pennsylvania, who, if I might, I'm  
going to introduce at this time.

REP. GEORGE GEKAS (R-Pennsylvania): Thank you very  
much.

My purpose in co-sponsoring this legislation is a bit  
divergent from the statements that the vice president has made,  
and some of the other theses that have been propounded here.

I, for instance, do not co-sponsor this legislation to  
destroy special interests, to keep them our doors, to put them  
away forever.

My interest in this legislation is to allow the  
special interests to continue to do the good work that they do.

On behalf of the handicapped for the American  
Disabilities Act, the special interest of seniors in overturning  
the catastrophic bill that was so much of a catastrophe in the  
Congress a few years back.

Many special interests are the only connection we have  
with our constituents back home, and their special interest.

Rather, what I want to do, and in co-sponsoring this  
legislation, I'm sure it comports with the aim of the others as  
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they might state it in their own way, is to bring them out in  
the open, these special interests, find out who they are, and  
how they will be approaching us, and with what resources will  
they be propounding their special interests.

Lobbying is protected by the Constitution. Some of the  
problems I have with even our own legislation may run into a  
debate having to do with the First Amendment and other parts of  
the Constitution.

But overall, we want to keep faith with the American  
people to bring all of the lobbying and special interest fervor  
and democratic action into the spotlight. And we hope to  
accomplish it. That's the way we'll be serving the American  
people, once we pass this type of legislation.

Q: (inaudible) a question I'd like to direct to  
Chairman Bryant. (inaudible) group of people here today, those  
who are in favor of campaign finance reform earlier today, there  
were a bunch of congressmen saying that (inaudible) on these  
three things and other issues (inaudible)?

REP. BRYANT: Well, we will act. I have confidence  
that we will act. I think the reporting by the press with regard  
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to discussions of campaign finance have been mistaken almost  
totally. I've been in repeated meetings in which we brought up

the issue of campaign finance reform. We passed a campaign finance reform bill that was very strong and very good and very much praised by all of the groups involved in urging that kind of reform in the last several years. The last one was vetoed. I think we'll pass it, or one very much like it again.

With regard to the lobbying disclosure bill, I think the fact that you have a Republican and Democratic leadership of these two committees here today indicates that it'll be taken up quickly and it'll be passed quickly.

I'm confident that you'll see a lot of action. Our press conference here today is to promise that.

Q: Senator Levin, this (inaudible) Justice Department and in terms of specific enforcement provisions, and penalties for lobbyists who may not be totally forthcoming (inaudible)?

SENATOR LEVIN: What we're providing is central enforcement, central filing. Right now, there is duplication, overlap, lack of enforcement. The Justice Department, for instance, has said that the current laws are ineffective,

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inadequate, and unenforceable.

We are going to correct that and make them enforceable by the Justice Department, and we're going to have a single place where they're going to be enforced by, and a--if I'm looking around here for Linda--the correct term I think is administrative fine--is that the correct? We're going to be using administrative fines as the enforcement tool because history has indicated that the kind of a fine in this, with this kind of legislation is credible, it's effective, it will do the job, and the lobbying community in this city will register, if a law clearly covers them, if there's a Justice Department that has the authority to enforce it with an administrative fine.

Q: So if somebody did not tell the truth or was lobbying without having filed, and they were caught, they would be fined, but they would just pay a fine and go on lobbying?

SENATOR LEVIN: They would lose total credibility on Capitol Hill if they had been fined by the Justice Department for a violation of law and then show up in one of our offices.

The trouble with the current law, which has a criminal penalty is, it's never been enforced; never once.

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An administrative fine will be enforced because it fits the situation, and if a lobbyist violates that law and has been fined, I think I can state with great confidence, that someone who has so violated our laws, been found to have violated our new law, and has been fined for violating our law is not going to be a welcome person in the offices of many members of the Congress.

Q: Senator (inaudible)?

SENATOR LEVIN: We think that this is--

Q: (inaudible)

SENATOR LEVIN: I'm not sure there is anything as a final law, but we've learned from the experience of the existing laws where those loopholes are and where they've been utilized by the lobbying community, and we have had hearings on this matter, we have discussed this matter with experts.

We think we have closed the loopholes. The loopholes, by the way, are the ones that I've described on existing lobbying, the Lobbying Regulation Act.

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These are some of the loopholes here. If you just lobby staff you're not covered. Well, most of the lobbying is of staff in this town.

Unless you spend more than half your time lobbying members themselves, you're not covered under existing law.

Well, very few lobbyists spend more than half their time lobbying members themselves. So that's been a big loophole.

On the Foreign Agents Registration Act, there are loopholes. There's an attorney's exemption, for instance, which exempts attorneys from that law. Domestic subsidiaries exemption as you can see is probably the biggest exemption.

Going back to the Lobbying Regulation Act, maybe the biggest loophole of all is that executive branch lobbying is not covered.

We learned in the Wedtech scandal something about executive branch lobbying. It was lobbying the executive branch which created that problem. No disclosure whatsoever.

It was all done in the dark. We are going to bring the light of day to lobbying in this town, and we believe that as a result the public will be better served, because then and only then will they know who's being paid in this town to lobby whom, and being paid how much.

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SENATOR COHEN: Can I add one--can I add something?

There is no state of legislative perfection that I am aware of. There's no such thing as a perfect bill, and even assuming we pass it and think it's relatively perfect, as soon as we achieve that status the forces of disintegration will once again start.

There'll be attempts made to create modifications, or, quote, loopholes, and so we're going to be in the constant process of revising any law that we pass and seek to improve its effectiveness.

So we don't purport to hold this out as a perfect piece of legislation that will stem the tide of abuses in the past. We think it will make a marked improvement over what we have today, but it's always going to be in the process of becoming and becoming a better law.

Q: Are you broadening the definition of (inaudible)?

SENATOR LEVIN: Yes.

Q: (inaudible)?

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SENATOR LEVIN: Well, we are basically defining lobbying in the common sense definition of what everyone understands a lobbyist to be, which is somebody that is paid to promote and protect the interests of a special group, or others, those interests being protected and promoted in front of either the legislative or executive branches.

Q: (inaudible) contact with lawmakers, or executive branch officials to (inaudible)?

SENATOR LEVIN: Somebody, somebody being paid? That is correct.

Q: (inaudible) about barring members from lobbying after (inaudible)?

SENATOR LEVIN: We will be looking at that separately, both in the House and in the Senate. In the House that's going to be looked at by, I believe, a separate committee of the House. Here it will be looked at by our subcommittee, but in a separate bill.

So we will be reviewing that.

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178 LINES

VICE PRESIDENT AL GORE AND SENS. WILLIAM COHEN (R-MAINE) AND  
CARL LEVIN (D-MICH.) AND REP. JOHN BRYANT (D-TEXAS) NEWS  
CONFERENCE

February 4, 1993  
(Second Add)

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x x x reviewing that.

Q: (inaudible)

SENATOR LEVIN: I'm sorry, I didn't hear the beginning of the question.

Q: Would you urge the administration to include those types of people in (inaudible) it doesn't quite define lobbyists (inaudible)?

SENATOR LEVIN: I'd have to review those, the

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specifics of those rules and compare them. I'm not sure that I can answer that question without doing it. But I think our definition is the correct definition, and I would suggest it be applied generally, be it to us, or lobbying executive branch as well.

But we will define what constitutes lobbying relative to both the executive and the legislative branch. It will be in one bill.

Q: (inaudible)

SENATOR LEVIN: They have no choice, if it's in our bill, because our bill is going to--

Q: (inaudible)

SENATOR LEVIN: Oh, on the ethics?

Q: (inaudible)

SENATOR LEVIN: The revolving door issue and what happens after people leave is really a different issue that we

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are not addressing in this bill.

As I said, there's going to be a hearing on that, including the Boren legislation, in our subcommittee, and that will be the time to take up those issues. But this bill does not purport to cover that issue.

SENATOR COHEN: That bill would ban certain individuals, executive branch, and perhaps even at some point congressional, from going into law firms or into other types of firms to engage in lobbying activities. That may, or may not pass. But in any event, if it did not pass and they went into a firm, they're still covered by this law. They're still lobbyists. They'd still be required to register.

Q: (inaudible) former lawmakers are covered by this piece of legislation, or not?

REP. BRYANT: If they're lobbyists, sure.

SENATOR LEVIN: Are they lobbyists?

Q: If they (inaudible)--

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SENATOR LEVIN: If they fit the lobbying test in this bill--

Q: (inaudible)

SENATOR COHEN: This is prospective. This is a law that we hope to pass, that will apply in the future. Anyone who

engages in that kind of activity is covered by the bill, whether they've been in practice 10 years or 10 months.

Q: Senator Levin--

SENATOR LEVIN: Wait, let me just clarify one answer, if I can.

The contact is what triggers the disclosure. After that everything counts, including strategizing. In the absence of contact you don't trigger the disclosure. I've just been corrected by my--

Q: (inaudible) who was hired by (inaudible)--

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SENATOR LEVIN: If there's no contact, you do never, you do not trigger the disclosure. However, after a contact, all actions count, including strategizing.

Q: (inaudible)

SENATOR LEVIN: During the reporting period.

Q: Do you think that the passage of this legislation would mitigate in any way the revolving, some of the revolving door concerns because (inaudible)?

REP. BRYANT: Let me underline one more time: there are three bills that you've asked about at one point or another here. The campaign finance laws, which we've passed in the past, and I think we'll pass again in this Congress. The ethics legislation which the president has dealt with by executive order as it applies to members of the executive branch and we intend to deal with, with the statute as well.

And the third matter is how we regulate lobbying with regard to disclosure of who's lobbying, and how much money's being spent.

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We're here today to have a press conference with regard to the third law. I can speak only for myself on this matter. I intend to support very strong legislation to prohibit post-employment lobbying by members of Congress and congressional staff. But that is a separate bill.

SENATOR COHEN: In other words, if I were to leave tomorrow and join a law firm, this law, assuming it becomes law, would not in any way inhibit me, or prohibit me from engaging in lobbyist activities. I would simply register, and then fill out the various forms to say how much time I've spent, how much I'm being paid, and on behalf of whom.

So that's no deterrent whatsoever to any firm to hire a member, or a member of the executive branch.

Q: (inaudible) social situation, very informal, is

that not contact--

SENATOR LEVIN: Can we just give you the definition in the bill on the definition of "contact"? Can we just, rather than me trying to do this from memory, we will give you the definition of "contact."

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REP. BRYANT: Let me answer your inquiry. The fact is that if you have a former member working as a strategist in a law firm, but not making contact, and that law firm is spending money in the course of contacting members of Congress, it must report what it is doing, how much it is spending, and the fact that that guy happens to be at that law firm will be well-known. There's not going to be anything hidden about it.

The fact is that that firm is going to have to report. So you'll know that that firm, which happens to be assisted by a strategy led by someone who you don't want to be leading the strategy, you'll know that that's going on.

It's not simply individual reporting. It's reporting by lobbying firms as well.

SENATOR LEVIN: Let me read the--since we've had a question about definition of "contact," I'll read you the definition.

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 the formulation, modification, or adoption of federal legislation,

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including legislative proposals.

The formulation, modification, or adoption of a federal rule, regulation, executive order, or other program, policy or position in the United States government. Or 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 officials serving in the senior executive service, the uniformed services, and the agency responsible for taking such action.

It's a complicated definition, but that's it. And I don't know we have copies of the bill available here today. Do we? For those of you who want to get those kind of details, we've got copies of the bill available for all three of you.

END OF NEWS CONFERENCE

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The Reuter Transcript Report

Gore/Congress news conference (second and final add)

Feb. 4, 1993

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## FOR LOBBYISTS, THESE MAY BE THE GOOD OLD DAYS

**W**hile official Washington has worked itself into a tizzy over the nuances of Nannygate, Congress—of all places—is quietly getting down to work on a serious ethics issue. The Lobbying Disclosure Act of 1993 has received almost no attention. But it could dramatically affect the way business does business in the capital.

The proposal is the brainchild of a bipartisan group of House and Senate members led by Senator Carl Levin (D-Mich.). It has the blessing of the Clinton Administration and faces no organized opposition—yet.

But lobbyists are sure to launch a counterattack soon because the bill might actually accomplish something. It would require, for the first time, that all professional lobbyists register and identify their clients, the issues on which they have lobbied, and how much they were paid. It would extend coverage to efforts to influence the executive branch, now largely unregulated. And it would close loopholes that allow most representatives of foreign interests to avoid public identification.

**SHAKE SHOW.** The legislation tosses a few bones to lobbyists, too. It streamlines the current loophole-ridden requirements by reducing disclosure from four reports a year to two—but would require far more people to file. And it significantly reduces paperwork for companies employing multiple lobbyists.

The proposal, says its co-author, Representative John Bryant (D-Tex.), "will allow the public, perhaps for the first time in history, to understand how lobbying is done in the halls of Congress." It's about time. Congress has long turned a blind eye to lobbying abuses. There are enough influence-peddlers in the capital to populate a small city—13,000 of them are listed in a directory entitled *Washington Representatives*. But loopholes in 40-year-old laws allow three-quarters of them to avoid registering as lobbyists. "The current law is a

farce," says veteran lobbyist Howard D. Marlowe. "There are so many holes in it that it looks like Swiss cheese."

The lobbying proposal solves political problems for a variety of players. Clinton can fulfill his promise of lobbying reform without spending any money. He can also throw a bone to Perotistas by appearing to respond to Ross Perot's relentless campaign assault on special-interest water-carriers. And lawmakers can cast a vote for change while skirting the bitter partisan warfare of campaign finance, a more controversial

item on the reform agenda. "Nobody, Republican or Democrat, minds putting some pressure on the lobbyists these days," says Democratic consultant Brian Lunde.

**NO NAMES.** The proposal is no cure-all. To make it more palatable to incumbents, the authors agreed not to require lobbyists to identify the individual lawmakers they lobbied. Instead, they would be required only to list the committees they sought to influence. Tax lawyers are worried that the bill's provisions would compromise their clients' business interests by forcing them to disclose certain communications with the IRS. And charitable groups and civil-liberties organizations fret that their behind-the-scenes discussions with lawmakers or

federal agencies would be revealed. "We don't purport to hold this out as a perfect piece of legislation," concedes one co-sponsor, Senator William S. Cohen (R-Me.). "But we think it will make a marked improvement over what we have today."

Resourceful lobbyists will work behind the scenes to kill or dilute the bill, but they are resigned to some version of it becoming law in this year. Why the relative calm in Gucci Gulch? Says one veteran of the Washington political wars: "There is a basic belief that whatever ramparts are put up can be easily stormed. And who wants to be known as the person who killed lobbying reform?"

*By Richard S. Dunham*



LEVIN: BOTH PARTIES BACK REFORMS

### CAPITAL WRAPUP

#### REPUBLICANS

**F**or the last couple of weeks, Bill Clinton has looked like a President who couldn't buy a good break. But he's about to get one from an unlikely source. Senate Minority Leader Bob Dole (Kan.) is letting his House counterpart, mild-mannered Robert H. Michel (Ill.), anchor the televised response to the Feb. 17 State of the Union speech. Clinton would have gotten rougher handling from House Minority Whip Newt Gingrich (Ga.) or another GOP firebrand. Michel is planning to use the event to showcase the diversity of GOP House members. Among those being considered for supporting

roles: Jay Kim (Calif.), the first Korean American in Congress; Henry Bonilla (Tex.), a Mexican American; and Gary Franks (Conn.), the House's only black Republican.

#### TAXES

**T**he millions of Americans who have just learned that they're supposed to pay Social Security taxes for casual household workers may see the rules eased. Dan Rostenkowski (D-Ill.), chairman of the House Ways & Means Committee, has reintroduced a provision of a tax bill vetoed last year that would raise the Social Security minimum earnings requirement from \$50 a quarter to \$300 a year. But as it

stands, the legislation wouldn't change the rules that declare all household workers to be employees rather than independent contractors.

#### PEOPLE

**A**uto makers are likely to have to deal with a consumer activist at the National Highway Traffic Safety Administration. Leading candidates for the job include Judith L. Stone, executive director of Advocates for Highway & Auto Safety, and Georgia highway-safety chief Thomas L. Coleman. ... Olena Berg, deputy state treasurer of California, is in line for the top pension regulation job at the Labor Dept.

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## Protect

To the Editor:  
Protectionists seize on the news surplus last year's billion (news article "getting tougher" ther to restrict Japan opens its m  
It's ironic: we export surplus which doesn't prevent thists from opposi Agreement with t  
Businesses and like competition points out in his Scene column, are antidumping law: would consider s; domestically. The average full cost, excess capacity whether our trade or negative.

I'll rest easier v ble member of th tration — of whic respects an énthu shows a clear reo try's balance of mirror image of l its domestic sa ments, and does liberality or re: trade policies or partners. We will so long as we say Federal Governm estic investmei always have a co for the opposite i

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The writer is Thorne Profess ony, Emeritus,

## Let's No

To the Editor:  
"North Korea spectars, Reyh bers" (news an

## Indecent Disclosure

There's a big problem with proposed new Federal legislation to curb the influence of lobbyists. The lobbyists aren't rallying against it. That means Congress, aided and abetted by President Clinton, is getting ready to commit a giant hoax.

This hoax has a title: the Lobbyist Disclosure Act of 1993. A more apt title might be the Congressional Freebies Preservation Act. The measure, expected to be moved on today by the Senate Governmental Affairs Committee, is a blueprint for concealing how favor-seeking special interests bestow benefits on members of Congress and their staffs.

Under the bill, backed by a bipartisan group led by Senator Carl Levin, Democrat of Michigan, loophole-ridden disclosure rules now in force would be replaced with a single statute that covers Congress and the executive branch, and provides realistic penalties for non-compliance. That is an advance over the farcical scheme that allows most Washington lobbyists — including lawyers representing foreign corporations — to avoid registering at all.

Representative John Bryant, Democrat of Texas, says the Levin bill would let the public really see "how lobbying is done in the halls of Congress." Not true. The bill's sanitized disclosure rules require revelation by lobbyists of their total expenditures but omit a much more telling member-by-member listing of the expensive meals, vacations, plane rides and other goodies lobbyists dole out in a form of legalized bribery. Omitted, too, is any disclosure of lobbyists' role as rainmakers for campaign funds.

There's still time for the bill's sponsors to reconsider and offer corrective amendments. But lawmakers are clearly reluctant to document what they've grown accustomed to accepting on the sly.

What an opportunity for that avenging angel of the people, William Jefferson Clinton, to fly down and set things right.

After all, he knows how to write a lobbying law. He blocked a weak disclosure bill in the Arkansas Legislature, and then went to voters with an initiative that put a much stronger one in place. But Mr. Clinton, who loves to talk, is now doing it out of both sides of his mouth: he has launched a verbal assault against "high-priced lobbyists" while hastily backing the phony reform measure that would perpetuate their undue influence. Will the guy who flew in Arkansas please stand up, or has he already succumbed to bad company?

### Arkansas and America

A comparison of key provisions of the Arkansas lobbying disclosure law with the proposed lobbying disclosure bill pending in the Senate.

What Lobbyists must disclose	Arkansas Law	Senate Bill
Client's identity	Yes	Yes
Issues and committees lobbied	No	Yes
Gifts to lawmakers	Yes	No
Travel and lodging for lawmakers	Yes	No
Receptions and other events for lawmakers	Yes	No
Contributions to lawmakers' pet charities	Yes	No

## Lifeline for Bosnia

## Disagreement May Threaten Lobbying Bill

### At Issue Is Disclosure Of Gifts to Lawmakers

By Charles R. Babcock  
Washington Post Staff Writer

Sen. Carl M. Levin (D-Mich.) and Fred Wertheimer, president of the public interest group Common Cause, agree with President Clinton that special-interest lobbyists have undue influence in Washington today.

But they disagree whether Levin's lobbying disclosure bill needs to require that lobbyists report gifts to members of Congress and their staffs. The difference is threatening a two-year effort to revamp the current laws.

The senator views Wertheimer's insistence on gifts' disclosure as "an 11th car" that might derail his "10-car train" on lobbying reform. Wertheimer says that Levin's bill "greatly improves" lobbying registration rules, but the loophole on gifts leaves unreported a central way lobbyists work to influence lawmakers.

The key player in the controversy may be Clinton, who made a pitch for lobbying revisions in his State of the Union Address. The president hasn't addressed the specifics of Levin's bill, which was approved unanimously by the Senate Governmental Affairs Committee last week.

Levin and Wertheimer agree that members of Congress should ban the acceptance of most gifts—as the executive branch already does. But only Wertheimer thinks lobbyists should have to disclose the gifts they are now allowed to give members and their staffs.

Levin said in an interview that "there's only one effective way" to address the problem: changing the congressional gift rules to make them as tough as those for the executive branch.

In 1991, however, Congress moved to loosen the gifts rules, allowing members to accept unlimited meals in Washington without any reporting requirement. "There's a different atmosphere" in



BEN, CARL M. LEVIN  
... frustrated by group's opposition

Sen. Wendell H. Ford (D-Ky.), chairman of the Senate Rules and Administration Committee and majority whip, to push for gift rules that match the executive branch.

The senator said he is frustrated by Common Cause's current opposition to the bill, after its strong support for the measure last year. "They are sinking, trying to sink a good bill on registration because it doesn't contain an ineffective rule on gifts," he said.

Levin's Governmental Affairs oversight of government management subcommittee began work on the bill two years ago.

The 8,000 lobbyists who register now are only about one-quarter of those who actually work to influence legislation, Levin said. The bill would expand the definition of "lobbyist" to require more complete registration. It would also set up an enforcement mechanism so filers would report what issues they are working on and how much they are paid. It wouldn't require that lobbyists report which individuals they are lobbying or how they are spending their money.

The full committee report on the bill last year said, "The basic purpose for disclosure of receipts and expenditures is that the amount a lobbyist spends is the best indicator of the scope of the lobbying effort." It added that it wasn't as important to know how the money was spent.

Wertheimer disagrees, saying that "money is used to obtain access and influence. And that involves the various ways lobbyists provide financial help to members—from meals to gifts to scholarships for family members—huge sums to sponsor events at conventions, donations to foundations. It shouldn't

## There's No Place Success of 700 Workers in Flexibility

By Bill McAllister  
Washington Post Staff Writer

Two mornings a week, Michael Panchura spends 45 to 50 minutes fighting Capital Beltway traffic between his Northern Virginia home and his Agriculture Department office in Hyattsville. Three days a week, Panchura changes his route and figures his commute takes 28 seconds flat.

That is how long it takes Panchura to get from the kitchen of his house in Sterling to his basement office. He has been working there from 6:30 a.m. to 3 p.m. three days a week for the past 18 months as part of an unusual government project that has successfully challenged the idea that all government workers should work in large, urban bureaucracies.

"It's just been great," said Panchura, 47, who has spent half of his three-year government career working at home. Adding up the time he would have spent commuting, Panchura said: "I've increased my lifespan by 12 full days a year."

In January, a committee of personnel specialists who studied Panchura and approximately 700 other federal workers from 13 agencies agreed with Panchura's assessment. When it comes to increasing productivity and morale of federal workers, the committee found there is no place like home.

Their study, conducted for the President's Council on Management Improvement, a committee of federal executives, declared that a three-year pilot program called "Flexiplace" has been so successful that it should be carefully expanded. Their report, published in January by the Office of Personnel Management, was not quite as enthusiastic as Panchura, but it hailed the project as "an effective mechanism for national efforts regarding work/family, transportation and energy issues." It rated at-home work and found "a very high level of performance."

The project required workers to spend several days each week in their regular office. Their agencies had to furnish them with computers and necessary equipment for use at home.

The project can work with "any job that's portable," said Carmen Queen-Hines, who oversaw the Ag-



Michael Panchura, an

"We don't see it as it can help" boost work Maxcine Sterling, a tor. She describes Flexiplace for Federal Pilot—as one of a number of initiatives such as part-time work and used successfully by businesses—to improve bureaucracy's performance.

Sterling and other workers caution that the limited by the number of workers who participate in mid-level government good performance professionals—lawyers, get analysts and work on projects alone in entry-level positions that accounts for a large federal employees, work in the test.

"I can do everything at work. I just don't have to face," said Susan Hines, a Department law two days a week work on environmental law cases at home.

Thanks to computers and government credit cards—pro-

## Still Out to Lunch on Lobbyists

Give George Steinbrenner this much credit: he knows how Congress works. With some well-placed campaign contributions and well-connected lobbyists, the owner of the New York Yankees won quiet approval from Congress last fall for a \$58 million bailout for his family shipbuilding business.

There were no public hearings, and the Government officials who had rejected the firm's claims for contract overruns were never consulted. Nor was there any way for the public to tell how much the lobbyists shelled out to wine, dine and otherwise persuade targeted lawmakers of the virtues of Mr. Steinbrenner's plea.

A typical case — and thus more reason for tougher regulations on lobbying. Yet Congress and the President seem ready to dispose of the issue with an inadequate bill just introduced by Senator Carl Levin, Democrat of Michigan.

The bill has some virtues. It would replace the present lobbying disclosure laws with a single uniform statute and plug loopholes so that some lobbyists, like lawyers who represent foreign companies, could no longer escape registration.

Moreover, lawyer-lobbyists and other hired guns would have to disclose the identity of their clients, the issues they lobby on, the Federal agencies and Congressional committees contacted, and the total receipts from clients — all in a form that can be cross-indexed with campaign contribution

data on file with the Federal Election Commission.

But such disclosure would still fall well below the level necessary to challenge the prevailing atmosphere in Washington. The public might be told a lobbyist was paid an eyebrow-raising \$500,000 for two months' light work. But the bill wouldn't require lobbyists to reveal details of the many benefits they now lavish on lawmakers: the trips to fancy resorts, the meals, the good seats at sold-out sporting events, gifts to a member's charitable foundation or favorite charity, cheap access to corporate jets and other goodies.

Nor would they have to fess up about the campaign contributions they raise for lawmakers — a major reason lobbyists hold so much sway.

Since the bill spares lawmakers all this embarrassment, it's easy to understand the rush in Congress to pass it and claim a reform victory. President Clinton's support is harder to figure. He understands the public's need for fuller disclosure by lobbyists; indeed, he fought for it in Arkansas. If it's good for Arkansas, why not for America?

Ideally, Congress ought to reform campaign financing and outlaw all the other ways lobbyists for monied special interests now subsidize lawmakers' life styles. To expect that much integrity from Congress isn't asking too much. But complete lobbying disclosure, itemized member by member, seems the bare minimum.

barrel of oil and a pile of petrodollars but the desire to avoid that awful choice at some future date. They think they can turn a pattern of multiple dependencies into a framework for collaboration. If Prime Minister Begin and Congress give them the chance, this is good, but it is worth the risks.

To be fair and effective, however, the pressure on the Israelis needs to be measured and sympathetic; they are being asked to take the biggest leap of faith. For to many of the 60 years of a nation that they celebrate today, an Arab has been an Arab and when the chips fall he has been an enemy. The new American dependence on Arab oil and wealth can hardly be comforting to Israel; nor can the intimacy that will flow from greater Saudi and Egyptian dependence on the United States.

As they watch their old enemies grow in strength and stature in the West, the Israelis feel even more desperately alone. To understand their difficulty about yielding

Such calculations of self-interest usually count for more in diplomacy than mere expressions of good will or proclamations of Arab unity. At any rate, it is the logic of these calculations that needs to be addressed before President Carter's approach can be rejected. By his logic, the risks of selling jets to Saudi Arabia are smaller than the risks of refusing. And the risks of pressing Israel to offer eventual withdrawals from the West Bank seem smaller than the risks of prolonged impasse in negotiations with Egypt.

Still, the risks, like the potential benefits, are heavily Israel's. We suspect that the fact of an American bid for entente with major Arab governments has been more unsettling to the Israelis than the tepid expressions of it. That is why, as they get their plaints, the Saudis and Egyptians, too, should be pressed to give a further sign that they understand peace with Israel to be part of the emerging bargain with the United States. It is the package deal that surrounds the package deal.

## What Limits on Lobbying?

Embarrassed by the Korean bribe scandal and besieged by pressure groups, Congress seems determined to do something to stiffen the law requiring lobbyists to disclose their activities. The House recently passed a far-reaching disclosure bill and the Senate Governmental Affairs Committee is considering an even tougher measure this week. In both versions, Congress seeks to open up Government without infringing the rights of those who seek to influence it. But for all their good intentions, the bills go too far in the direction of regulation.

Legislative lobbying is a time-honored pursuit of business, environmental, civil rights and other reputable groups. But periodic regulations of influence-peddling and corruption have given a seamy image to such activities which range from the simple buttonholing of Congressmen in the Capitol to sophisticated research by and that there is a new variety—grass-roots lobbying—the mass mailing campaigns and advertising bills perfected in the past few years to generate constituent pressure on Congress. The power of both kinds of lobbying worries Congress and good government groups like Common Cause. They contend that the existing disclosure law is too rigid to correct the abuses of traditional lobbying. And the law does not reach the grass-roots appeals which they fear may be diluting the effectiveness of public sentiment on important issues.

The House bill deals with direct lobbying by strengthening the requirements for annual registration and requiring quarterly reports from major professional lobbying groups. These reports would reveal total expenditures, the names of lobbyists, the money spent to entertain legislators, the issues pursued and possible conflicts of interest.

The principal controversy over this provision has centered on who should be required to make such disclosures. Both the House bill and the Senate version, sponsored by Senator Ribicoff of Connecticut, would sensibly limit the reporting to organizations, exempting individuals. The troubling aspect of both measures, however, is that they would extend the law to cover indirect, grass-roots lobbying. Direct lobbying needs systematic surveillance; it can clearly lead to improper and sustained influence and corruption. But the greatest imaginable evil of grass-roots lobbying is that it artificially stimulates a flood of mail to sway an unsuspecting Congressman. The remedy seems to us worse than the ill.

Without shedding much light on legislative decision-making, the grass-roots provisions of the proposed legislation would place a burden on the free flow of ideas. And the administrative costs of reporting requirements could impede the very existence of smaller lobby groups. There is something unsettling about the idea of Government looking, even in a modest way, to see why citizens write their Congressman, and we hope the Senate rejects it.

## Mr. Koch Moves In on the Schools

When Mayor Koch called for a study of the City School Chancellor's office, he was not only questioning the Chancellor's role in the City's education system, but also his own. Koch's move is a direct challenge to the Chancellor's authority and a signal that the Mayor is taking a more active role in the City's education system. Koch's move is a direct challenge to the Chancellor's authority and a signal that the Mayor is taking a more active role in the City's education system.

City Hall politics. Staggered terms would be wiser and safer. For decentralization, Mr. Koch cannot be faulted for wanting to find out how well that drastic alteration had worked over a decade. It is unfortunate, however, that the Mayor's request for an objective review was accompanied by his tendentious statement that "recent studies have shown that the quality of education in the city has declined." What recent studies have shown is that achievement in certain areas has declined in schools across the country. There is no indication that the downward trend has been any steeper in the city than in other systems which have not decentralized their schools. Moreover, any study ought to take note of the impact of staff reduction, which have played havoc with the stability of the schools. Let us by all means study the gains and losses attributable to decentralization. But let us do it fairly.

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two dozen of them in 1976. The reason for the increase in grain spills, which has placed a heavy workload on many of the biggest elevators, at peak periods, some can exceed the check, and want attention is paid to removing dust accumulations or maintaining equipment in spark free condition. Moreover, since the Environmental Protection Agency has quite rightly ordered grain elevators to stop spraying dust clouds into the surrounding air, the elevators are recapturing the dust — which has intuitive value — in special filters and returning it to the grain before shipping. This increases the value of the shipment but also circulates additional clouds of highly explosive particles within the elevator.

What should be done? The National Grain and Feed Association, representing most of the 10,000 elevators, calls for additional research before costly

Federal regulators have moved cautiously, advised one segment of the industry, the export companies, to stop recirculating grain dust within the elevators, it would then have to be collected outside for sale or disposal. But the regulators are reluctant to require compliance until they have more solid data from a study by the National Academy of Sciences.

Their caution is understandable. But there is no excuse for not holding to existing safety standards. The Occupational Safety and Health Administration inspected hundreds of elevators after the December explosion and found violations in three of every four, most of them serious. The main responsibility for this appalling neglect lies with the elevator operators. If they continue to balk, perhaps steeper fines would prove an inducement to paying safety first.

impress everyone that nothing is being made, spirits of the citizenry into a feeling of calm and a sense of responsibility. This takes Westway, rehabilitate repairing the bridges, but protection matters: order and cheer.

Another single act take would have a great effect, instilling encouragement that it be a better place in work.

New

NY 7/27/98 P.12

## Letters Do Not a Lobby Make

After vanishing in committee for two months, the lobby disclosure bill that has already passed the House is suddenly reborn in the Senate. The Governmental Affairs Committee is now preparing a draft of the measure that would strengthen the requirements for annual registration and quarterly reports from major lobbying groups. Given the recent examples of unbecomingly influence-peddling and corrupt contact between lobbyists and legislators, the more known about organized counseling the better.

But in its zeal for reform (or self-protection) Congress continues to aim this bill as well as organized advertising and mass mailings that seek to elicit public communications to Congress. This, too, has become a

big business but it is hard to believe the complaint that the periodic tides of identically worded telegrams and letters are distorting the members' sense of public opinion. If Congressmen are unable to distinguish between spontaneous voter reaction and induced outpourings, they are not likely to be long for Congress in any case.

The trouble is that for a modest gain or convenience Congress would place a new burden on the free flow of ideas, impose a regulatory requirement on the people's right of petition and exact administrative costs from some small groups that can ill afford the money. Far better to read — or even to ignore — the mail than to curtail it.

## Mideast: T

To the Editor: I was deeply disturbed by your July 7 re Chief Rabbi, Asa...

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The Times readers: Lett include the and telephn large volumi gret that w edge of to n

## The Porn Blight Spreads

The sex "supermarket" that opened recently across from one of New York City's delights, the Citicorp Center's Market, would be distasteful in any location, but its shabby quality is heightened by its purposeful proximity to the elegant Citicorp complex. This cluster of shops and open spaces is an oasis where the urban rambler can browse, have a cup of coffee or enjoy five minutes of quiet, alone but not lonely.

Yet, however offensive the sex center — which includes a pornographic movie theater, bookstore and a nude non-alcoholic "bar" — it is also, apparently quite legal — at least for the time being. It is free to cash in, and has, on its neighbor's deserved success in attracting New Yorkers and out-of-towners alike. There is nothing that can be done at the moment beyond strictly enforcing the city rules and licensing laws that regulate but do not prohibit such an establishment.

The ultimate answer may lie in zoning that can

somehow take into account the issue of appropriateness. That sort of plan, proposed last year, was defeated in a welter of parochial politics. It is past time for Mayor Koch to make another try at zoning that would limit and define the areas in which the purveyors of porn can peddle their wares yet not abridge their constitutional freedom of speech.

Meanwhile, a pleasant area of the city is being polluted by the slyly trendy prurience of the East 33d Street sex emporium. So why not some direct, legal and peaceable citizen protest? Residents of the area, and New Yorkers generally, need to be heard and seen from time to time to remind us all that what is legal can nonetheless be despicable. If the patrons of sex establishments are embarrassed to be seen by a crowd, that will be their problem. If they are embarrassed enough, the sex shops may find it unprofitable to despoil an area that the community prizes.

A24 THE NEW YORK TIMES EDITORIALS/LETTERS WEDNESDAY, MARCH 3, 1993

## We Have a Real Chance for Lobbying Reform

To the Editor:

You have run three editorials this month criticizing my lobbying registration bill, which the public interest group Common Cause "strongly urged" us to pass just last year. As Common Cause then explained, this bill is "a comprehensive approach to reform," which "would bring the process of organized professional lobbying into the sunlight, following the well-established principle that government should be conducted under the eye of the public."

"Still Out in Lame on Lobbyists" (Feb. 14) points out that, under my bill, "lawyer-lobbyists and other hired guns would have to disclose the identity of their clients, the issues they lobby on, the Federal agencies and Congressional committees contacted, and the total receipts from clients — all in a form that can be cross-indexed with campaign contribution data on file with the Federal Election Commission." That improves our toothless, useless system of lobbying disclosure immeasurably.

But while you concede my bill would put an end to nondisclosure, you label it "inadequate." "Real Political Reform Can't Wait" (Feb. 21) goes a step further, calling the bill "lame" and "flawed." "Indecent Disclosure" (Feb. 25) labels the bill "a giant hoax."

What is going on here? It turns out that Common Cause — the organization on which I believe you have relied for information on this issue — has changed its mind, and you have followed suit. Common Cause, like you, has no criticism of what the bill does, but now opposes it because of what it does not do. Apparently, Common Cause and you now believe that comprehensive lobbying registration is too easy, so we should try something harder, like addressing the Congressional gift rules at the same time.

Congressional gift rules are inadequate, I agree, and should be changed, but I would go further than Common Cause and apply the comprehensive new executive branch rules to Congress as well. Those rules do not just apply to gifts from lobbyists, but also to gifts from anybody with an interest in matters before an agency. And they do not just require disclosure, but also prohibit gifts (subject to reasonable exclusions).

You and Common Cause are wrong if you think lobbying registration re-

form is easy. Over the last year, we have been besieged by lobbyists seeking to water down the bill by, for example, eliminating the requirement to disclose lobbying of executive branch officials and Congressional staffs, exempting lawyers, and substantially raising the threshold for disclosure. Thanks in part to the strong support of President Clinton, we have pressed forward with a bill even stronger than the one endorsed last year by Common Cause.

We have been down this road before. For decades, lobbying reform has been one of this town's consistent failures. In the late 1970's, Congressional reformers pushed lobbying reform bills through the House and the Senate, only to see the bills die because one interest or another mobilized against them. Now, with the Senate poised to pass a comprehensive lobbying registration bill for the



gale

first time in more than a decade, Common Cause is poised with a knife.

We have gone a mile for lobbying registration reform in this bill, now Common Cause demands another inch. Without this additional inch, it says it is willing to torpedo the whole bill. It is disappointing and unfortunate that you have chosen to place your weight behind this unreasonable position.

CARL LEVIN  
U.S. Senator from Michigan  
Washington, Feb. 26, 1993

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# Real Political Reform Can't Wait

"We must begin again to make Government work for ordinary taxpayers, not simply for organized interest groups and that beginning must start with real political reform," President Clinton said midway through his economic address on Wednesday. "Believe me," he improvised after the applause died down, "they were cheering that last section at home."

The television offered a richly symbolic image at that moment. Visible over the President's left shoulder was the genial face of House Speaker Thomas Foley. It was not possible to tell from his expression what Mr. Foley thought of this remark, but Mr. Foley did seem to be clapping his hands. Now he needs to use them to open up the legislative throttle if the country is to get the campaign finance and lobbying laws that are needed to clean up Congress.

So far, Mr. Foley has given theoretical assent to campaign reform, but has made the House calendar a hostage to recalcitrant Democrats who hope that Mr. Clinton's idealism will burn itself out and that public demand for reform will wilt in the summer doldrums.

Mr. Clinton called in his speech for action on campaign finance reform "this year." That may have sounded good to most viewers at home. But it's a clear retreat from his commitment to put the issue at the top of his legislative agenda. In the Congressional lexicon, "this year" could just as well be never, and it is a troubling signal that Mr. Clinton may be swayed by Mr. Foley's private warning that pushing campaign reform will endanger his economic legislation.

It is easy to understand why fund-raising-obsessed House incumbents would want to delay any action to make them less beholden to the special interests that finance their campaigns (see chart). Yet, why Mr. Clinton would go along is baffling, especially given the strong conflicting advice from the Senate majority leader, George Mitchell. Mr. Mitchell has put campaign finance legislation on a fast track in his chamber, with the hope of moving it to the floor for a vote as early as next month.

Just as baffling is Mr. Clinton's warm endorsement of the lame lobbying disclosure bill proposed by Senator Carl Levin of Michigan. In his speech, he called on Congress to pass it "quickly" as a step "to deal with the undue influence of special interests." What Mr. Clinton didn't say, but what every senator and House member well knows, is that the bill

doesn't require disclosure of the sort of embarrassing details that might actually shame the typical member to quit mooching off lobbyists for expensive meals and exotic vacations.

Mr. Clinton may be hoping that speedy approval of a flawed lobbying bill would detract attention from the laggard path of campaign finance reform. If the President wants to play this shell game, he should be prepared to be exposed as phony and faint-hearted on this issue.

But if Mr. Clinton would level with Americans on political reform, as he has on the economy, he would gain in popularity and respect. The next step is for Mr. Clinton to say how he would toughen the campaign finance bill passed last year by Congress and vetoed by President Bush, and to demand from Congress a firm timetable for getting the legislation to his desk. And the next time he is standing at the lectern in the House, it would not hurt to turn around and tell Mr. Foley to quit clapping and get on with the people's business.

## The PAC-Addicted Congress

During the 1991-92 election cycle, House incumbents raised \$180 million for their campaigns. Nearly half of this money came from political action committees, or PAC's, representing private industry and other interest groups. Giving by PAC's now favors incumbents over challengers by about 10 to 1. Here are the fund-raising results for Speaker Thomas Foley and other top Democratic House leaders.

PAC Recipient	Total 1992 PAC Receipts	% of Total Contributions From PAC's
Speaker Thomas Foley	\$ 401,286	73%
Majority Leader Richard Gephardt	1,231,077	34
Majority Whip David Bonior	851,013	72
Dem. Caucus Chair Steny Hoyer	716,167	64
Dem. Caucus Vice Chair Vic Fazio	1,145,288	58

Source: Federal Election Commission

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2/21/93 NY Times

THE WHITE HOUSE

WASHINGTON

April 1, 1993

MEMORANDUM FOR CIRCULATION

FROM: DONSIA STRONG   
Domestic Policy Council

SUBJECT: THE LOBBYING DISCLOSURE ACT OF 1993, H.R. 823

The Administration is in the process of developing executive branch comments to transmit the Administration's concerns regarding H.R. 823 to the House Subcommittee on Administrative Law and Government Relations, Committee on the Judiciary.

The bill sets forth a single statute that would replace the four primary statutes currently regulating lobbying activity disclosure. They are: The Federal Regulation of Lobbying Act; the Foreign Agents Registration Act (FARA); Section 1352 of Title 31, U.S. Code (the "Byrd Amendment"); and provisions contained in the HUD Reform Act.

Each department or agency affected by the current lobbying statutes is asked to transmit its comments or concerns about H.R. 823 to the Domestic Policy Council.

Please prepare your comments or concerns according to the attached format. Comments or concerns that affect the executive branch in general should be discussed first, with concerns particular to your department or agency following. Comments from participating departments or agencies will be discussed at the Wednesday, April 7, meeting.

Thank you for your cooperation.

THE WHITE HOUSE

WASHINGTON

April 26, 1993

MEMORANDUM FOR BRUCE REED

FROM: DONSIA STRONG

SUBJECT: LOBBYING DISCLOSURE ACT OF 1993

On April 7, DPC hosted a meeting of departments and agencies interested in commenting on the Lobbying Disclosure Act of 1993. HUD had the most comments and strengthening suggestions based on its experience with its own disclosure provisions. Most other agencies concurred in HUD's suggestions.

As a result of that meeting, DOJ was tasked with developing the Executive Branch's comments for transmission to Congress. Bruce and I have reviewed and provided comments on draft testimony. DOJ revised the testimony and I provided additional comments. Currently, the testimony is being approved through the DOJ process.

The testimony includes several suggestions for strengthening the bill. I have discussed them with Peter Levine of Sen. Levin's staff. He agrees that some of the suggestions are strengtheners and noncontroversial. Provided Sen. Levin agrees and the language can be worked out, Peter is willing to include such noncontroversial suggestions in Sen. Levin's amendment on the floor.

Other strengtheners are more controversial. Peter considers the first two suggestions listed below very controversial. I have not discussed the changes DOJ would like to see regarding enhancing enforcement. DOJ will be negotiating with the Hill very soon. If agreed to, DOJ's changes will have to be included in the House bill.

The various proposals are listed below:

**CONTROVERSIAL**

1. Include every Government employee, except clerical employees, as a "covered official" capable of triggering a registration requirement.

This suggestion is based on the belief that a host of preliminary decisions are made at every level -- some that never reach the ultimate decision maker. By excepting lobbying contact with Government employees below a certain rank the bill may inadvertently lead to

increased lobbying of those who do not make lobbyists subject to registration.

The arguments against including this provision are that by broadening the scope of "covered officials" the significance of those professional lobbyists who register is diminished. There are hundreds of federal government offices that local attorneys contact on a daily basis. Requiring all of them to register could significantly overload the system.

2. Make the definition of lobbyist more precise by deleting the qualifying language "only incidental" and "not significant."

DOJ argues that the qualifying language creates a loophole that undermines meaningful disclosure. Lobbyists will attempt to structure their time so that their work appears "only incidental."

Without the qualifying language, once the monetary threshold is reached anyone who contacts covered officials must be listed as a lobbyist on the registration form. This will result in many outside of those considered "professional lobbyists" being listed as lobbyists on the registration filing.

#### **NONCONTROVERSIAL**

3. Require disclosure of individuals who pay lobbyists to lobby on behalf of another.

4. Require disclosure of ad hoc coalitions and their participants. Ad hoc coalitions include situations where lobbyists for different clients consult and work together, sometimes under an assumed coalition name.

5. Require more precise financial disclosure. Peter will not agree to exact expenditures.

6. Require separate line item disclosure of grassroots activities.

7. Noncomplying lobbyists should forfeit their fees.

8. Make clear what is considered an inactive registration.

#### **DOJ PROPOSALS**

9. Prohibit contingent fee arrangements.

10. Make clear that noncomplying registrants have the burden of showing compliance versus merely showing a violation was unlikely.

11. Require registrants to keep records.
12. Treat a minor noncompliance as other noncompliances.

THE WHITE HOUSE

WASHINGTON

April 26, 1993

MEMORANDUM FOR CIRCULATION

FROM: DONSIA STRONG  
Domestic Policy Council

SUBJECT: LOBBYING DISCLOSURE OF 1993

The Lobbying Disclosure Act of 1993 is expected to be considered for floor action in the Senate sometime this week. The House has yet to schedule a mark-up and has no plans for further hearings. DOJ will be meeting with Senate and House staff soon to express DOJ's strong support for housing the new office within DOJ.

The non-profit sector continues to lobby for relief from the registration requirements of Levin/Bryant. Their primary objective is amend the bill to conform the bill's definitions to those found in the IRS Code as applied to non-profits.

The Department of Justice also feels strongly that the definition of lobbyist should be changed. DOJ urges deleting all qualifying language found in the definition so that after the monetary threshold has been reached anyone who contacts a "covered official" would be considered a lobbyist and required to register.

Partly in response to the concerns of the non-profits, Sen. Levin's Committee Report attempts to draw a bright line as to what is considered "only incidental to"... and "not a significant part of" services provided to a client. The Committee Report provides that individuals whose lobbying activities are less than 10% of the services provided will not have to register.

DOJ does not feel that this is a sufficiently bright line. Their proposed language is attached.

Sen. Levin will never agree to a separate definition for use solely by the non-profits. He is equally ~~unwilling~~ <sup>unwilling</sup> in changing the definitions to accommodate DOJ's concerns. He is open to the prospect of cutting the 10% threshold to 5%. He only objects to raising this issue on the floor.

Jack Quinn, Peter Levine of Sen Levin's staff and I have worked on alternative language that could be used to settle the issue of who is a lobbyist and whether the lobbyist need register as related to the monetary threshold. We have reached no such consensus as it

relates to DOJ's concerns.

According to the compromise, anyone who makes lobbying contacts is required to register EXCEPT:

--in-house lobbyists whose expenses

on behalf of a particular client exceed \$1,000 semiannually or,  
on behalf of all clients exceed \$5,000 semiannually

--outside lobbyists whose income

on behalf of a particular client exceeds \$1,000 semiannually or,  
on behalf of all clients exceeds \$5,000 semiannually

In reaching those threshold numbers, the non-profit sector would use its IRS filing numbers. In complying with IRS reporting requirements as to expenditures on lobbying, the non-profit sector counts only its "attempts to influence legislation" in the Legislative Branch.

Mr. Bryant's staff does not agree with the threshold numbers reached in compromise with the Senate. Mr. Bryant's staff argues that according to a GAO review requested in connection with this bill thresholds set at \$5,000 will exempt 50% of the non-profit sector. Mr. Bryant's staff is urging a threshold of about \$2,500.

We have not contacted the non-profit sector to determine whether the specifics of this particular proposal are acceptable. Sen. Levin's office has spoken with the non-profit sector generally about some of these ideas and has stated that every indication is that this proposal would be acceptable to the non-profit sector. Further, Sen. Levin would prefer that no notice as to the specifics be given.

pp 9 and 10

(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. An individual employed or retained by a lobbyist whose services are rendered in a clerical, secretarial, or in a similar or related capacity, shall not be deemed to be a lobbyist for purposes of this Act.

103D CONGRESS  
1ST SESSION

# H. R. 823

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. BRYANT (for himself, Mr. GEKAS, and Mr. GLICKMAN) introduced the following bill: which was referred to the Committee on the Judiciary

MARCH 16, 1993

Additional sponsors: Mr. OLVER and Mr. MAZZOLI

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) **FINDINGS.**—The Congress finds that—

8 (1) responsible representative Government re-  
9 quires public awareness of the efforts of paid lobby-

## 1 SEC. 3. DEFINITIONS.

2 As used in this Act:

3 (1) The term "agency" has the same meaning  
4 as such term is defined under section 551(1) of title  
5 5, United States Code.6 (2) The term "client" means any person who  
7 employs or retains another person for financial or  
8 other compensation to conduct lobbying activities on  
9 its own behalf. An organization whose employees  
10 conduct lobbying activities on its behalf is both a cli-  
11 ent and an employer of the lobbyists. In the case of  
12 a coalition or association that employs or retains  
13 others to conduct lobbying activities on behalf of its  
14 membership, the client is the coalition or association  
15 and not its individual members.16 (3) The term "covered executive branch offi-  
17 cial" means—

18 (A) the President;

19 (B) the Vice President;

20 (C) any officer or employee of the Execu-  
21 tive Office of the President other than a clerical  
22 or secretarial employee;23 (D) any officer or employee serving in an  
24 Executive level I, II, III, IV, or V position, as  
25 designated in statute or executive order;

1 (E) any employee of a joint committee of  
2 the Congress, other than a clerical or secretar-  
3 ial employee.

4 (5) The term "Director" means the Director of  
5 the Office of Lobbying Registration and Public Dis-  
6 closure.

7 (6) The term "employee" means any individual  
8 who is an officer, employee, partner, director, or pro-  
9 prietor of an organization, but does not include—

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

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

15 (7) The term "foreign entity" means—

16 (A) a government of a foreign country or  
17 a foreign political party (as such terms are de-  
18 fined in section 1 (e) and (f) of the Foreign  
19 Agents Registration Act of 1938, as amended  
20 (22 U.S.C. 611 (e) and (f)));

21 (B) a person outside the United States,  
22 other than a United States citizen or an organi-  
23 zation that is organized under the laws of the  
24 United States or any State and has its principal  
25 place of business in the United States; or

1 order, or any other program, policy or position  
2 of the United States Government; or

3 (iii) the administration or execution of a  
4 Federal program or policy (including the nego-  
5 tiation, award, or administration of a Federal  
6 contract, grant, loan, permit, or license) except  
7 that it does not include communications that  
8 are made to officials serving in the Senior Exec-  
9 utive Service or the uniformed services in the  
10 agency responsible for taking such action.

11 (B) The term shall not include communications  
12 that are—

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

15 (ii) made by representatives of a media or-  
16 ganization who are primarily engaged in gather-  
17 ing and disseminating news and information to  
18 the public;

19 (iii) made in a speech, article or other pub-  
20 lication, or through the media;

21 (iv) made on behalf of a foreign principal  
22 and disclosed under the Foreign Agents Reg-  
23 istration Act of 1938, as amended (22 U.S.C.  
24 611 et seq.);

1 official specifically designated in the notice to  
2 receive such communications;

3 (xi) not possible to report without disclos-  
4 ing information, the unauthorized disclosure of  
5 which is prohibited by law;

6 (xii) made to agency officials with regard  
7 to judicial proceedings, criminal or civil law en-  
8 forcement inquiries, investigations or proceed-  
9 ings, or filings required by statute or regula-  
10 tion;

11 (xiii) made in compliance with written  
12 agency procedures regarding an adjudication  
13 conducted by the agency under section 554 of  
14 title 5, United States Code, or substantially  
15 similar provisions;

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

19 (xv) made on behalf of an individual with  
20 regard to such individual's benefits, employ-  
21 ment, other personal matters involving only  
22 that individual, or disclosures by that individual  
23 pursuant to applicable whistleblower statutes.

24 (10) The term "lobbyist" means any individual  
25 who is employed or retained by another for financial

1 a national or State political party or any organiza-  
2 tional unit thereof, or a Federal, State, or local unit  
3 of any foreign government.

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

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

11 (2) Notwithstanding paragraph (1), any person  
12 whose total income or total expenses in connection with  
13 lobbying activities on behalf of a particular client do not  
14 exceed, or are not expected to exceed, \$1,000 in a semi-  
15 annual period is not required to register for such client.

16 (b) **CONTENTS OF REGISTRATION.**—Each registra-  
17 tion under this section shall be in such form as the Direc-  
18 tor shall prescribe by regulation and shall contain—

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

23 (2) the name, address, and principal place of  
24 business of the registrant's client, and a general de-

1 practicable, a list of specific issues that have already  
2 been addressed or are likely to be addressed; and

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

10 (c) **GUIDELINES FOR REGISTRATION.**—(1) In the  
11 case of a registrant representing more than one client, a  
12 separate registration shall be filed for each client rep-  
13 resented.

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

18 **SEC. 5. REPORTS BY REGISTERED LOBBYISTS.**

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

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

4 (3) in the case of a registrant lobbying on be-  
5 half of a client other than the registrant, a good  
6 faith estimate of the total amount of all income from  
7 the client (including any payments to the registrant  
8 by any other person to lobby on behalf of the client)  
9 during the semiannual period, other than income for  
10 matters that are unrelated to lobbying activities; and

11 (4) in the case of a registrant lobbying on its  
12 own behalf, a good faith estimate of the total ex-  
13 penses that the organization and its employees in-  
14 curred in connection with lobbying activities during  
15 the semiannual filing period.

16 (c) ESTIMATES OF INCOME OR EXPENSES.—For the  
17 purpose of this section, estimates of income or expenses  
18 shall be made as follows:

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

21 (A) At least \$1,000 but not more than  
22 \$10,000.

23 (B) More than \$10,000 but not more than  
24 \$20,000.

1 of dollar value) to meet the requirements of sub-  
2 section (b) (3) or (4) of this section.

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

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

8 (B) the expenses for services provided by  
9 an independent contractor or agent of the reg-  
10 istrant who is separately registered under this  
11 Act.

12 (d) CONTACTS WITH CONGRESSIONAL COMMIT-  
13 TEES.—For purposes of subsection (b)(2), any contact  
14 with a member of a congressional committee, an employee  
15 of a congressional committee, or an employee of a member  
16 of a congressional committee regarding a matter within  
17 the jurisdiction of such committee is a contact with the  
18 committee.

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

1 including, to the extent practicable, the issuance of  
2 published decisions and advisory opinions;

3 (3) review and make such supplemental ver-  
4 ifications or inquiries as are necessary to ensure the  
5 completeness, accuracy, and timeliness of registra-  
6 tions and reports;

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

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

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

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

21 (6) make copies of each registration and report  
22 filed under this Act available to the public in elec-  
23 tronic and hard copy formats as soon as practicable  
24 after the date on which such registration or report  
25 is received;

1 such registrations and reports, as soon as prac-  
2 ticable (but not later than 2 working days) after  
3 such material is received or created; and

4 (12) transmit to the President and the Con-  
5 gress an annual report describing the activities of  
6 the Office and the implementation of this Act,  
7 including—

8 (A) a financial statement for the preceding  
9 year;

10 (B) a summary of the registrations and re-  
11 ports filed with the Office in the preceding year;

12 (C) a summary of the registrations and re-  
13 ports filed on behalf of foreign entities in the  
14 preceding year; and

15 (D) recommendations for such legislative  
16 or other action as the Director considers appro-  
17 priate.

18 **SEC. 7. INFORMAL RESOLUTION OF ALLEGED NONCOMPLI-**  
19 **ANCE.**

20 (a) **ALLEGATION OF NONCOMPLIANCE.**—Whenever  
21 the Office of Lobbying Registration and Public Disclosure  
22 has reason to believe that a person may be in noncompli-  
23 ance with the requirements of this Act, the Director shall  
24 notify the person in writing of the nature of the alleged  
25 noncompliance and provide an opportunity for the person

1 quest shall be structured in a way to minimize the burden  
2 imposed, consistent with the need to determine whether  
3 the person is in compliance, and shall—

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

7 (2) describe the class or classes of documentary  
8 material to be produced thereunder with such defi-  
9 niteness and certainty as to permit such material to  
10 be readily identified; and

11 (3) prescribe a return date or dates which pro-  
12 vide a reasonable period of time within which the  
13 material so requested may be assembled and made  
14 available for inspection and copying or reproduction.

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

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

24 (2) written decisions issued by the Director  
25 under sections 8 and 9 may be published after ap-

1 determination whether there was a noncompliance and a  
2 final determination of the penalty, if any. If no written  
3 response or request for a hearing was received under this  
4 section within the 30-day period provided, the determina-  
5 tion and penalty assessment shall constitute a final and  
6 nonappealable order.

7 (c) WRITTEN DECISION.—If the Director makes a  
8 final determination that there was a noncompliance, the  
9 Director shall issue a public written decision—

10 (1) requiring that the noncompliance be in-  
11 cluded in a publicly available list of noncompliances,  
12 to be reported to the Congress on a semiannual  
13 basis;

14 (2) directing the person to correct the non-  
15 compliance; and

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

18 (A) In the case of a minor noncompliance,  
19 the amount shall be no more than \$10,000, de-  
20 pending on the nature and extent of the non-  
21 compliance.

22 (B) In the case of a significant noncompli-  
23 ance, the amount shall be more than \$10,000,  
24 but no more than \$100,000, depending on the  
25 nature and extent of the noncompliance.

1 **SEC. 9. OTHER VIOLATIONS.**

2 (a) **LATE REGISTRATION OR FILING; FAILURE TO**  
3 **PROVIDE INFORMATION.**—If a person registers or files  
4 more than 30 days after a registration or filing is required  
5 under this Act, or fails to provide information requested  
6 by the Director under section 7(c), the Director shall—

7 (1) notify the person in writing of the non-  
8 compliance and a proposed penalty assessment and  
9 provide such person with an opportunity to respond  
10 in writing within 30 days; and

11 (2)(A) afford the person a 30-day period in  
12 which to request an oral hearing before an independ-  
13 ent presiding official; and

14 (B) grant such a request made during such pe-  
15 riod for good cause shown.

16 (b) **DETERMINATION.**—Unless the Director deter-  
17 mines that the late filing or failure to provide information  
18 was justified, the Director shall make a final determina-  
19 tion of noncompliance and a final determination of the  
20 penalty, if any. If no written response or request for a  
21 hearing was received under this section within the 30-day  
22 period provided, the determination and penalty assessment  
23 shall constitute a final and unappealable order.

24 (c) **WRITTEN DECISION.**—If the Director makes a  
25 final determination that there was a noncompliance, the  
26 Director shall issue a public written decision—

1 tions 8(b) or 9(b), to the appropriate United States court  
2 of appeals. Such review may be obtained by filing a written  
3 notice of appeal in such court no later than 60 days after  
4 the date on which the Director provides notice of the Di-  
5 rector's decision and by simultaneously sending a copy of  
6 such notice to the Director. The Director shall file in such  
7 court the record upon which the decision was issued, as  
8 provided under section 2112 of title 28, United States  
9 Code. The findings of fact of the Director shall be conclu-  
10 sive, unless found to be unsupported by substantial evi-  
11 dence, as provided under section 706(2)(E) of title 5,  
12 United States Code. Any penalty assessed or other action  
13 taken in the decision shall be stayed during the pendency  
14 of the appeal.

15 (e) RECOVERY OF PENALTY.—Any penalty assessed  
16 in a written decision which has become final under this  
17 Act may be recovered in a civil action brought by the At-  
18 torney General in an appropriate United States district  
19 court. In any such action, no matter that was raised or  
20 that could have been raised before the Director or pursu-  
21 ant to judicial review under subsection (b) may be raised  
22 as a defense, and the determination of liability and the  
23 determination of amounts of penalties and assessments  
24 shall not be subject to review.

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

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

5 (B) by striking out subsection (j);

6 (C) in subsection (o), by striking out "the  
7 dissemination of political propaganda and any  
8 other activity which the person engaging therein  
9 believes will, or which he intends to, prevail  
10 upon, indoctrinate, convert, induce, persuade,  
11 or in any other way influence" and inserting in  
12 lieu thereof "any activity which the person en-  
13 gaging in believes will, or which he intends to,  
14 in any way influence";

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

18 (E) by striking out subsection (q);

19 (2) in section 3(g) (22 U.S.C. 613(g)), by strik-  
20 ing out "established agency proceedings, whether  
21 formal or informal." and inserting in lieu thereof  
22 "judicial proceedings, criminal or civil law enforce-  
23 ment inquiries, investigations or proceedings, or  
24 agency proceedings required by statute or regulation  
25 to be conducted on the record.";

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

4 (6) 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 (7) 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 (8) 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. 13. AMENDMENTS TO THE BYRD AMENDMENT.**

23 Section 1352(b) of title 31, United States Code, is  
 24 amended—

1 (b) REPEAL OF PROVISIONS RELATING TO HOUSING  
2 LOBBYIST ACTIVITIES.—(1) Section 13 of the Depart-  
3 ment of Housing and Urban Development Act (42 U.S.C.  
4 3537b) is repealed.

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

7 (c) REPEAL OF REGISTRATION REQUIREMENT RE-  
8 LATING TO PUBLIC UTILITY LOBBYING ACTIVITIES.—  
9 Section 12(i) of the Public Utility Holding Company Act  
10 of 1935 (15 U.S.C. 791(i)) is repealed.

11 **SEC. 15. CONFORMING AMENDMENTS TO OTHER STATUTES.**

12 (a) AMENDMENT TO COMPETITIVENESS POLICY  
13 COUNCIL ACT.—Section 5206(e) of the Competitiveness  
14 Policy Council Act (15 U.S.C. 4804(e)) is amended by in-  
15 serting “or a lobbyist for a foreign entity (as the terms  
16 ‘lobbyist’ and ‘foreign entity’ are defined in section 3 of  
17 the Lobbying Disclosure Act of 1993)” after “an agent  
18 for a foreign principal”.

19 (b) AMENDMENT TO TITLE 18, UNITED STATES  
20 CODE.—Section 219(a) of title 18, United States Code,  
21 is amended by inserting “or a lobbyist required to register  
22 under the Lobbying Disclosure Act of 1993 in connection  
23 with the representation of a foreign entity, as defined in  
24 section 3(7) of that Act” after “an agent of a foreign prin-

1 Act and the application of such provision to other persons  
2 and circumstances shall not be affected thereby.

3 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

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

6 **SEC. 18. EFFECTIVE DATES.**

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 6 and 17 shall take effect on the date of the en-  
12 actment of this Act.

13 (c) **REPEALS AND AMENDMENTS.**—The repeals and  
14 amendments made under sections 12, 13, and 14 shall  
15 take effect as provided under subsection (a), except that  
16 such repeals and amendments—

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

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

## LOBBYING

## Panel Approves Registration, Disclosure Requirements

**W**ith President Clinton vowing to check the influence of lobbyists, a Senate committee approved legislation that would require thousands more lobbyists to register and disclose some details of their handiwork.

The Senate Governmental Affairs Committee approved the bill by voice vote Feb. 25. The legislation (S 349) aims to widen the scope of registration requirements for lobbyists and strengthen the enforcement of disclosure laws for those who lobby the federal government on behalf of a client.

But some groups argued that the measure does not go far enough in requiring disclosure.

Sponsored by panel member Carl Levin, D-Mich., the bill would replace existing statutes with a single, uniform rule requiring anyone lobbying the executive or legislative branch to register with a new Office of Lobbying Registration and Public Disclosure at the Justice Department.

Currently, only people involved primarily in lobbying members of Congress must register. There is no disclosure requirement for lobbying executive branch officials or congressional staff members. Lobbyists currently register at a variety of places, including the House, Senate, Justice Department and agency contracting offices.

S 349 seeks to streamline this process with the single office where all lobbyists would register and disclosure files would be maintained.

There are more than 2,000 registered lobbyists; bill supporters estimate that that number could triple or quadruple under the measure.

Levin characterized the measure as a "loophole-plugging bill." He said the bill would allow the public to know "who is being paid, how much and by who to lobby Congress and the executive branch for what."

Many of the loopholes that Levin was referring to date back to the Federal Regulation of Lobbying Act of 1946, which required all people hired for the principal purpose of lobbying Congress to register with the House or Senate. The act has long been consid-

## BOXSCORE

**Bills:** S 349, HR 823 — Lobby registration.

**Latest action:** Senate Governmental Affairs Committee approved S 349 on Feb. 25.

**Next likely action:** Hearings on HR 823 in House.

**Background:** Clinton administration supports requiring more lobbyists to register.

**Reference:** 1992 Weekly Report, pp. 3782, 1858.



Levin

ered largely ineffectual. For instance, it has no enforcement mechanism.

Its authority was diminished considerably after the Supreme Court in 1964 narrowly interpreted provisions so that almost anyone could minimize lobbying reporting or avoid registration altogether.

Vice President Al Gore joined Levin, Sen. William S. Cohen, R-Maine, and Rep. John Bryant, D-Texas, on Feb. 4 to announce introduction of the legislation and to underscore the president's commitment to signing the measure.

The bill is not new. A nearly identical measure sponsored by Levin was approved by the committee in 1992 but died on the Senate calendar.

Bryant, a member of the House Judiciary Committee, introduced a companion bill (HR 823) that will be the subject of hearings in the Administrative Law and Governmental Relations Subcommittee in mid-March.

### Some Want More Detail

At the Senate markup, Alaska Republican Ted Stevens said he was disappointed that the bill would not require lobbyists to disclose where they receive the majority of their funding. Stevens said he is "constantly ap-

proached" by lobbyists from such groups as the Audubon Society or the Wilderness Society and is unable to determine "who is paying them."

Levin told Stevens that the issue of lobbyist funding would be better brought up in separate legislation.

The public interest organization Common Cause, which strongly supported the bill last year, opposed committee passage this year. Common Cause argued that the bill needed strengthening to require disclosure of gifts or financial benefits that lobbyists give to lawmakers or to members of their staffs.

Alliance for Justice, an umbrella organization representing national civil rights groups, also argued against committee approval of the measure, saying small nonprofit organizations would be burdened by the necessity to register. The bill would exempt all lobbyists who spend less than \$1,000 on lobby-related activity in semi-annual reporting periods.

Nan Aron, executive director of the group, proposed raising the lobbying expense threshold from \$1,000 to 20 percent of a total budget of an organization or company. But Levin said that would exempt companies such as General Motors Corp. and Exxon Corp., which he said do not come near to spending 20 percent of their budget on lobbying.

The New York Times called the bill "a giant hoax" in a Feb. 25 editorial, saying it does not require enough specific detail about lobbying activities.

One committee aide said registered lobbyists tend to support the measure on the grounds that many of them have reported losing clients to lobbyists who do not register.

### Provisions

Other provisions of the measure would require lobbyists to:

- Give a semiannual report to the Justice Department revealing the income received for lobbying on behalf of a client or, if lobbying for themselves, an estimate of the amount spent on lobbying activities.

- List issues the lobbyist worked on and the federal agencies and congressional committees contacted and the amount of money spent.

- Pay civil penalties as high as \$100,000 for violations.

One difference from 1992's measure is a provision requiring the establishment of an on-line computer at the Justice Department to allow the public easy access to Federal Election Commission data.

By Richard Sammon