

Calendar No. 54

103D CONGRESS
1ST SESSION

S. 349

[Report No. 103-37]

A BILL

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

APRIL 1 (legislative day, MARCH 3), 1993

Reported with amendments

Calendar No. 54103^D CONGRESS
1ST SESSION**S. 349****[Report No. 103-37]**

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

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

APRIL 1 (legislative day, MARCH 3), 1993

Reported by Mr. GLENN, with amendments

[Omit the part struck through and insert the part printed in italic]

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”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) responsible representative Government re-
4 quires public awareness of the efforts of paid lobby-
5 ists to influence the public decisionmaking process in
6 both the legislative and executive branches of the
7 Federal Government;

8 (2) existing lobbying disclosure statutes have
9 been ineffective because of unclear statutory lan-
10 guage, weak investigative and enforcement provi-
11 sions, and an absence of clear guidance as to who
12 is required to register and what they are required to
13 disclose; and

14 (3) the effective public disclosure of the identity
15 and extent of the efforts of paid lobbyists to influ-
16 ence Federal officials in the conduct of Government
17 actions will increase public confidence in the integ-
18 rity of Government.

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

20 (1) provide for the disclosure of the efforts of
21 paid lobbyists to influence Federal legislative or ex-
22 ecutive branch officials in the conduct of Govern-
23 ment actions; and

24 (2) afford the fullest opportunity to the people
25 of the United States to exercise their constitutional
26 right to petition their Government for a redress of

1 grievances, to express their opinions freely to their
2 Government, and to provide information to their
3 Government.

4 **SEC. 3. DEFINITIONS.**

5 As used in this Act:

6 (1) The term “agency” has the same meaning
7 as such term is defined under section 551(1) of title
8 5, United States Code.

9 (2) The term “client” means any person who
10 employs or retains another person for financial or
11 other compensation to conduct lobbying activities on
12 its own behalf. An organization whose employees
13 conduct lobbying activities on its behalf is both a cli-
14 ent and an employer of the lobbyists. In the case of
15 a coalition or association that employs or retains
16 others to conduct lobbying activities on behalf of its
17 membership, the client is the coalition or association
18 and not its individual members.

19 (3) The term “covered executive branch offi-
20 cial” means—

21 (A) the President;

22 (B) the Vice President;

23 (C) any officer or employee of the Execu-
24 tive Office of the President other than a clerical
25 or secretarial employee;

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

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

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

11 (G) any officer or employee serving in a
12 position of a confidential or policy-determining
13 character under Schedule C of the excepted
14 service pursuant to regulations implementing
15 section 2103 of title 5, United States Code.

16 (4) The term “covered legislative branch offi-
17 cial” means—

18 (A) a Member of Congress;

19 (B) an elected officer of Congress;

20 (C) any employee of a Member of the
21 House of Representatives, of a committee of the
22 House of Representatives, or on the leadership
23 staff of the House of Representatives, other
24 than a clerical or secretarial employee;

1 (D) any employee of a Senator, of a Sen-
2 ate Committee, or on the leadership staff of the
3 Senate, other than a clerical or secretarial em-
4 ployee; and

5 (E) any employee of a joint committee of
6 the Congress, other than a clerical or secretar-
7 ial employee.

8 (5) The term “Director” means the Director of
9 the Office of Lobbying Registration and Public Dis-
10 closure.

11 (6) The term “employee” means any individual
12 who is an officer, employee, partner, director, or pro-
13 prietor of an organization, but does not include—

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

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

19 (7) The term “foreign entity” means—

20 (A) a government of a foreign country or
21 a foreign political party (as such terms are de-
22 fined in section 1 (e) and (f) of the Foreign
23 Agents Registration Act of 1938, as amended
24 (22 U.S.C. 611 (e) and (f)));

1 (B) a person outside the United States,
2 other than a United States citizen or an organi-
3 zation that is organized under the laws of the
4 United States or any State and has its principal
5 place of business in the United States; or

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

10 (8) The term “lobbying activities” means lobby-
11 ing contacts and efforts in support of such contacts,
12 including preparation and planning activities, re-
13 search and other background work that is intended
14 for use in contacts, and coordination with the lobby-
15 ing activities of others. Lobbying activities include
16 grass roots lobbying communications (as defined in
17 regulations implementing section 4911(c)(3) of the
18 Internal Revenue Code of 1986) to the extent that
19 such activities are made in direct support of lobby-
20 ing contacts.

21 (9)(A) The term “lobbying contact” means any
22 oral or written communication with a covered legisla-
23 tive or executive branch official made on behalf of a
24 client with regard to—

1 (i) the formulation, modification, or adop-
2 tion of Federal legislation (including legislative
3 proposals);

4 (ii) the formulation, modification, or adop-
5 tion of a Federal rule, regulation, Executive
6 order, or any other program, policy or position
7 of the United States Government; or

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

16 (B) The term shall not include communications
17 that are—

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

20 (ii) made by representatives of a media or-
21 ganization who are primarily engaged in gather-
22 ing and disseminating news and information to
23 the public;

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

1 (iv) made on behalf of a foreign principal
2 and disclosed under the Foreign Agents Reg-
3 istration Act of 1938, as amended (22 U.S.C.
4 611 et seq.);

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

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

13 (vii) testimony given before a committee,
14 subcommittee, or office of Congress, or submit-
15 ted for inclusion in the public record of a hear-
16 ing conducted by such committee, subcommit-
17 tee, or office;

18 (viii) information provided in writing in re-
19 sponse to a specific written request from a Fed-
20 eral agency or a congressional committee, sub-
21 committee, or office;

22 (ix) required by subpoena, civil investiga-
23 tive demand, or otherwise compelled by statute,
24 regulation, or other action of Congress or a
25 Federal agency;

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

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

10 (xii) made to agency officials with regard
11 to judicial proceedings, criminal or civil law en-
12 forcement inquiries, investigations or proceed-
13 ings, or filings required by statute or regula-
14 tion;

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

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

23 (xv) made on behalf of an individual with
24 regard to such individual's benefits, employ-
25 ment, other personal matters involving only

1 that individual, or disclosures by that individual
2 pursuant to applicable whistleblower statutes.

3 (10) The term “lobbyist” means any individual
4 who is employed or retained by another for financial
5 or other compensation to perform services that in-
6 clude lobbying contacts, other than an individual
7 whose lobbying activities are only incidental to, and
8 are not a significant part of, the services provided by
9 such individual to the client.

10 (11) The term “organization” means any cor-
11 poration (excluding a Government corporation), com-
12 pany, foundation, association, labor organization,
13 firm, partnership, society, joint stock company, or
14 group of organizations. Such term shall not include
15 any Federal, State, or local unit of government
16 (other than a State college or university as described
17 under section 511(a)(2)(B) of the Internal Revenue
18 Code of 1986), organization of State or local elected
19 or appointed officials, any Indian tribe, any national
20 or State political party and any organizational unit
21 thereof, or any Federal, State, or local unit of any
22 foreign government.

23 (12) The term “public official” means any
24 elected or appointed official who is a regular em-
25 ployee of a Federal, State, or local unit of govern-

1 ment (other than a State college or university as de-
2 scribed under section 511(a)(2)(B) of the Internal
3 Revenue Code of 1986), an organization of State or
4 local elected or appointed officials, an Indian tribe,
5 a national or State political party or any organiza-
6 tional unit thereof, or a Federal, State, or local unit
7 of any foreign government.

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

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

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

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

23 (1) the name, address, business telephone num-
24 ber and principal place of business of the registrant,

1 and a general description of its business or activi-
2 ties;

3 (2) the name, address, and principal place of
4 business of the registrant's client, and a general de-
5 scription of its business or activities (if different
6 from paragraph (1));

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

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

11 (B) significantly participates in the super-
12 vision or control of the lobbying activities; and

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

15 (4) the name, principal place of business, and
16 approximate percentage of equitable ownership in
17 the client (if any) ~~or~~ of any foreign entity that—

18 (A) holds at least 20 percent equitable
19 ownership in the client;

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

23 or

1 (C) is an affiliate of the client that has a
2 direct interest in the outcome of the lobbying
3 activity;

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

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

16 (c) GUIDELINES FOR REGISTRATION.—(1) In the
17 case of a registrant representing more than one client, a
18 separate registration shall be filed for each client rep-
19 resented.

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

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

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

9 (b) CONTENTS OF REPORT.—Each semiannual re-
10 port filed under this section shall be in such form as the
11 Director shall prescribe by regulation and shall contain—

12 (1) the name of the registrant, the name of the
13 client, and any changes or updates to the informa-
14 tion provided in the initial registration;

15 (2) for each general issue area in which the reg-
16 istrant engaged in lobbying activities on behalf of
17 the client during the semiannual filing period—

18 (A) a list of the specific issues upon which
19 the registrant engaged in significant lobbying
20 activities, including a list of bill numbers and
21 references to specific regulatory actions, pro-
22 grams, projects, contracts, grants and loans, to
23 the maximum extent practicable;

24 (B) a statement of the Houses and com-
25 mittees of Congress and the Federal agencies
26 contacted by lobbyists employed by the reg-

1 istrant on behalf of the client during the semi-
2 annual filing period;

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

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

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

16 (4) in the case of a registrant lobbying on its
17 own behalf, a good faith estimate of the total ex-
18 penses that the organization and its employees in-
19 curred in connection with lobbying activities during
20 the semiannual filing period.

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

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

1 (A) At least \$1,000 but not more than
2 \$10,000.

3 (B) More than \$10,000 but not more than
4 \$20,000.

5 (C) More than \$20,000 but not more than
6 \$50,000.

7 (D) More than \$50,000 but not more than
8 \$100,000.

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

11 (2) Income or expenses in excess of \$200,000
12 shall be estimated and rounded to the nearest
13 \$100,000.

14 (3) Any registrant whose total income or total
15 expenses are less than \$1,000 in a semiannual pe-
16 riod (as estimated under subsection (b) (3) or (4),
17 or under paragraph (4) of this subsection, as appli-
18 cable) is deemed to be inactive during such period
19 and may comply with the reporting requirements of
20 this section by so notifying the Director, in such
21 form as the Director may prescribe.

22 (4) In the case of registrants that are required
23 to report or identify lobbying income or expenses
24 under sections 6033 and 6104 of the Internal Reve-
25 nue Code of 1986, regulations developed under sec-

1 tion 6 shall provide that the amounts required to be
2 disclosed under such sections, or a good faith esti-
3 mate of such amounts, may be reported (by category
4 of dollar value) to meet the requirements of sub-
5 section (b) (3) or (4) of this section.

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

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

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

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

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

1 **SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF LOB-**
2 **BYING REGISTRATION AND PUBLIC DISCLO-**
3 **SURE.**

4 (a) ESTABLISHMENT.—(1) There is established with-
5 in the Department of Justice an Office of Lobbying Reg-
6 istration and Public Disclosure, which shall be headed by
7 a Director. The Director shall be appointed by the Presi-
8 dent, by and with the advice and consent of the Senate.
9 The Director shall be an individual who, by demonstrated
10 ability, background, training, and experience, is especially
11 qualified to carry out the functions of the position.

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

14 “Director of the Office of Lobbying Registra-
15 tion and Public Disclosure, Department of Justice.”.

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

18 (1) after notice and an opportunity for public
19 comment, and consultation with the Secretary of the
20 Senate, the Clerk of the House of Representatives,
21 and the Administrative Conference of the United
22 States, prescribe such rules, forms, penalty sched-
23 ules, and procedural regulations as are necessary for
24 the implementation of this Act;

25 (2) provide guidance and assistance on the reg-
26 istration and reporting requirements of this Act, in-

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

3 (3) review 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 the name of the client, the
16 lobbyist, and the registrant; 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 (7) preserve the originals or accurate reproduc-
2 tion of registrations until such time as they are ter-
3 minated, and of reports for a period of no less than
4 2 years from the date on which the report is
5 received;

6 (8) maintain a computer record of the informa-
7 tion contained in registrations and reports for no
8 less than 5 years after the date on which such reg-
9 istrations and reports are received;

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

16 (10) make information compiled and summa-
17 rized under paragraph (9) available to the public in
18 electronic and hard copy formats as soon as prac-
19 ticable after the close of each semiannual filing
20 period;

21 (11) provide, by computer telecommunication
22 and other means, to the Secretary of the Senate and
23 the Clerk of the House of Representatives copies of
24 all registrations and reports received under this Act
25 and all compilations, cross-indexes, and summaries

1 of 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, in-
7 cluding—

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 to respond in writing to the allegation within 30 days or
2 such longer period as the Director may determine appro-
3 priate in the circumstances.

4 (b) INFORMAL RESOLUTION.—If the person responds
5 within 30 days or other time limit set by the Director,
6 the Director shall—

7 (1) take no further action, if the person pro-
8 vides adequate information or explanation to deter-
9 mine that it is unlikely that a noncompliance exists;

10 ~~(2) treat the noncompliance as a minor non-~~
11 ~~compliance and, if appropriate, assess a penalty~~
12 ~~under section 8, if the person agrees that there was~~
13 ~~a noncompliance and corrects such noncompliance;~~
14 ~~or~~

15 *(2) if the person admits that there was a non-*
16 *compliance and corrects such noncompliance—*

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

19 *(B) in the case of a significant noncompli-*
20 *ance, treat the matter as a minor noncompliance*
21 *for the purpose of section 8; or*

22 (3) make a determination under section 8, if
23 the information or explanation provided indicates
24 that a noncompliance may exist.

1 (c) FORMAL REQUEST FOR INFORMATION.—If the
2 person fails to respond in writing within 30 days or other
3 time limit set by the Director, or the response is not ade-
4 quate to determine whether a noncompliance exists, the
5 Director may make a formal request for specific additional
6 information (subject to applicable privileges) that is rea-
7 sonably necessary for the Director to determine whether
8 the alleged noncompliance in fact exists. Each such re-
9 quest shall be structured in a way to minimize the burden
10 imposed, consistent with the need to determine whether
11 the person is in compliance, and shall—

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

15 (2) describe the class or classes of documentary
16 material to be produced thereunder with such defi-
17 niteness and certainty as to permit such material to
18 be readily identified; and

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

23 (d) NONDISCLOSURE OF INFORMATION.—Informa-
24 tion provided to the Director under this section shall not

1 be made available to the public without the consent of the
2 person providing the information, except that—

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

8 (2) written decisions issued by the Director
9 under sections 8 and 9 may be published after ap-
10 propriate redaction to ensure that confidential infor-
11 mation is not disclosed.

12 **SEC. 8. DETERMINATIONS OF NONCOMPLIANCE.**

13 (a) NOTIFICATION AND HEARING.—If the informa-
14 tion provided to the Director under section 7 indicates
15 that a noncompliance may exist, the Director shall—

16 (1) notify the person in writing of this finding
17 and, if appropriate, a proposed penalty assessment
18 and provide such person with an opportunity to re-
19 spond in writing within 30 days;

20 (2)(A) in the case of a minor noncompliance,
21 afford the person a 30-day period in which to re-
22 quest an oral hearing before an independent presid-
23 ing official; and

24 (B) grant such a request made during such pe-
25 riod for good cause shown; and

1 (3) in the case of a significant noncompliance,
2 afford the person an opportunity for a hearing on
3 the record under the provisions of section 556 of
4 title 5, United States Code, if requested by such per-
5 son within 30 days.

6 (b) DETERMINATION.—Upon the receipt of a written
7 response, the completion of a hearing, or the expiration
8 of 30 days, the Director shall review the information re-
9 ceived under this section and section 7 and make a final
10 determination whether there was a noncompliance and a
11 final determination of the penalty, if any. If no written
12 response or request for a hearing was received under this
13 section within the 30-day period provided, the determina-
14 tion and penalty assessment shall constitute a final and
15 nonappealable order.

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

19 (1) requiring that the noncompliance be in-
20 cluded in a publicly available list of noncompliances,
21 to be reported to the Congress on a semiannual
22 basis;

23 (2) directing the person to correct the non-
24 compliance; and

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

3 (A) In the case of a minor noncompliance,
4 the amount shall be no more than \$10,000, de-
5 pending on the nature and extent of the non-
6 compliance.

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

11 (d) CIVIL INJUNCTIVE RELIEF.—If a person fails to
12 comply with a directive to correct a noncompliance under
13 subsection (c), the Director shall refer the case to the At-
14 torney General to seek civil injunctive relief.

15 (e) PENALTY ASSESSMENTS.—(1) No penalty shall
16 be assessed under this section unless the Director finds
17 that the person subject to the penalty knew or should have
18 known that such person was not in compliance with the
19 requirements of this Act. In determining the amount of
20 a penalty to be assessed, the Director shall take into ac-
21 count the totality of the circumstances, including the ex-
22 tent and gravity of the noncompliance and such other mat-
23 ters as justice may require. The Director shall not assess
24 a penalty in an amount greater than that recommended
25 by an administrative law judge after a hearing on the

1 record under subsection (a)(3) unless the Director deter-
2 mines that the recommendation of the administrative law
3 judge is arbitrary and capricious or an abuse of discretion.

4 (2) Regulations prescribed by the Director under sec-
5 tion 6 shall define minor and significant noncompliances.
6 Significant noncompliances shall be defined to include a
7 knowing failure to register and any other knowing non-
8 compliance that is extensive or repeated.

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

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

15 (1) notify the person in writing of the non-
16 compliance and a proposed penalty assessment and
17 provide such person with an opportunity to respond
18 in writing within 30 days; and

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

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

24 (b) DETERMINATION.—Unless the Director deter-
25 mines that the late filing or failure to provide information

1 was justified, the Director shall make a final determina-
2 tion of noncompliance and a final determination of the
3 penalty, if any. If no written response or request for a
4 hearing was received under this section within the 30-day
5 period provided, the determination and penalty assessment
6 shall constitute a final and unappealable 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) in the case of a late filing, assessing a civil
11 monetary penalty of \$200 for each week by which
12 the filing was late, with the total penalty not to ex-
13 ceed \$10,000; or

14 (2) in the case of a failure to provide informa-
15 tion—

16 (A) including the noncompliance in a pub-
17 licly available list of noncompliances, to be re-
18 ported to the Congress on a semiannual basis;
19 and

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

22 (d) CIVIL INJUNCTIVE RELIEF.—In addition to the
23 penalties provided in this section, the Director may refer
24 the noncompliance to the Attorney General to seek civil
25 injunctive relief.

1 **SEC. 10. JUDICIAL REVIEW.**

2 (a) FINAL DECISION.—A written decision issued by
3 the Director under section 8 or 9 shall become final 60
4 days after the date on which the Director provides notice
5 of the decision, unless such decision is appealed under sub-
6 section (b) of this section.

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

24 (c) RECOVERY OF PENALTY.—Any penalty assessed
25 in a written decision which has become final under this
26 Act may be recovered in a civil action brought by the At-

1 torney General in an appropriate United States district
2 court. In any such action, no matter that was raised or
3 that could have been raised before the Director or pursu-
4 ant to judicial review under subsection (b) may be raised
5 as a defense, and the determination of liability and the
6 determination of amounts of penalties and assessments
7 shall not be subject to review.

8 (d) ATTORNEYS' FEES.—In any appeal brought
9 under this section, in which the person who is the subject
10 of such action substantially prevails on the merits, the
11 court may assess against the United States attorneys' fees
12 and other litigation costs reasonably incurred in the ad-
13 ministrative proceeding and the appeal.

14 **SEC. 11. RULES OF CONSTRUCTION.**

15 (a) PROHIBITION OF ACTIVITIES.—Nothing in this
16 Act shall be construed to prohibit, or to authorize the Di-
17 rector or any court to prohibit, lobbying activities or lobby-
18 ing contacts by any person, regardless of whether such
19 person is in compliance with the requirements of this Act.

20 (b) AUDIT AND INVESTIGATIONS.—Nothing in this
21 Act shall be construed to grant general audit or investiga-
22 tive authority to the Director, or to authorize the Director
23 to review the files of a registrant, except in accordance
24 with the requirements of section 7 regarding the informal

1 resolution of alleged noncompliances and formal requests
2 for information.

3 **SEC. 12. AMENDMENTS TO THE FOREIGN AGENTS REG-**
4 **ISTRATION ACT.**

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

7 (1) in section 1—

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

10 “(b) The term ‘foreign principal’ means a government
11 of a foreign country or a foreign political party.”;

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

13 (C) in subsection (o), by striking out “the
14 dissemination of political propaganda and any
15 other activity which the person engaging therein
16 believes will, or which he intends to, prevail
17 upon, indoctrinate, convert, induce, persuade,
18 or in any other way influence” and inserting in
19 lieu thereof “any activity which the person en-
20 gaging in believes will, or which he intends to,
21 in any way influence”;

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

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

1 (2) in section 3(g) (22 U.S.C. 613(g)), by strik-
2 ing out “established agency proceedings, whether
3 formal or informal.” and inserting in lieu thereof
4 “judicial proceedings, criminal or civil law enforce-
5 ment inquiries, investigations or proceedings, or
6 agency proceedings required by statute or regulation
7 to be conducted on the record.”;

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

9 (A) by striking out “political propaganda”
10 and inserting in lieu thereof “informational ma-
11 terials”; and

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

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

17 (A) by striking out “political propaganda”
18 and inserting in lieu thereof “informational ma-
19 terials”; and

20 (B) by striking out “(i) in the form of
21 prints or” and all that follows through the end
22 of the subsection and inserting in lieu thereof
23 “without placing in such informational mate-
24 rials a conspicuous statement that the materials
25 are distributed by the agent on behalf of the

1 foreign principal, and that additional informa-
2 tion is on file with the Department of Justice,
3 Washington, District of Columbia. The Attor-
4 ney General may by rule define what con-
5 stitutes a conspicuous statement for the pur-
6 poses of this subsection.”;

7 (5) in section 4(c) (22 U.S.C. 614(c)), by strik-
8 ing out “political propaganda” and inserting in lieu
9 thereof “informational materials”;

10 (6) in section 6 (22 U.S.C. 616)—

11 (A) in subsection (a), by striking out “and
12 all statements concerning the distribution of po-
13 litical propaganda”;

14 (B) in subsection (b), by striking out “,
15 and one copy of every item of political propa-
16 ganda”;

17 (C) in subsection (c), by striking out “cop-
18 ies of political propaganda,”;

19 (7) in section 8 (22 U.S.C. 618)—

20 (A) in subsection (a)(2), by striking out
21 “or in any statement under section 4(a) hereof
22 concerning the distribution of political propa-
23 ganda”;

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

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

4 **SEC. 13. AMENDMENTS TO THE BYRD AMENDMENT.**

5 Section 1352(b) of title 31, United States Code, is
6 amended—

7 (1) in paragraph (2), by striking out subpara-
8 graphs (A), (B), and (C) and inserting in lieu there-
9 of the following:

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

15 “(B) a certification that the person making
16 the declaration has not made, and will not
17 make, any payment prohibited by subsection
18 (a).”;

19 (2) in paragraph (3), by striking out all that
20 follows “loan shall contain” and inserting in lieu
21 thereof “the name of any registrant under the Lob-
22 bying Disclosure Act of 1993 who has made lobbying
23 contacts on behalf of the person in connection with
24 that loan insurance or guarantee.”; and

1 (3) by striking out paragraph (6) and redesignig-
2 nating paragraph (7) as paragraph (6).

3 **SEC. 14. REPEAL OF CERTAIN LOBBYING PROVISIONS.**

4 (a) REPEAL OF THE FEDERAL REGULATION OF LOB-
5 BYING ACT.—The Federal Regulation of Lobbying Act (2
6 U.S.C. 261 et seq.) is repealed.

7 (b) REPEAL OF PROVISIONS RELATING TO HOUSING
8 LOBBYIST ACTIVITIES.—(1) Section 13 of the Depart-
9 ment of Housing and Urban Development Act (42 U.S.C.
10 3537b) is repealed.

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

13 (c) REPEAL OF REGISTRATION REQUIREMENT RE-
14 LATING TO PUBLIC UTILITY LOBBYING ACTIVITIES.—
15 Section 12(i) of the Public Utility Holding Company Act
16 of 1935 (15 U.S.C. 79l(i)) is repealed.

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

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

1 (b) AMENDMENT TO TITLE 18, UNITED STATES
2 CODE.—Section 219(a) of title 18, United States Code,
3 is amended by inserting “or a lobbyist required to register
4 under the Lobbying Disclosure Act of 1993 in connection
5 with the representation of a foreign entity as defined
6 under section 3(7) of such Act,” after “an agent of a for-
7 eign principal required to register under the Foreign
8 Agents Registration Act of 1938, as amended,”.

9 (c) AMENDMENT TO FOREIGN SERVICE ACT OF
10 1980.—Section 602(c) of the Foreign Service Act of 1980
11 (22 U.S.C. 4002(c)) is amended by inserting “or a lobby-
12 ist for a foreign entity (as defined in section 3(7) of the
13 Lobbying Disclosure Act of 1993)” after “an agent of a
14 foreign principal (as defined by section 1(b) of the Foreign
15 Agents Registration Act of 1938)”.

16 (d) AMENDMENT TO THE FEDERAL ELECTION CAM-
17 PAIGN ACT.—Section 319(b) of the Federal Election Cam-
18 paign Act (2 U.S.C. 441e(b)) is amended—

19 (1) in paragraph (1) by striking out “or” after
20 the semicolon;

21 (2) by redesignating paragraph (2) as para-
22 graph (3); and

23 (3) by inserting after paragraph (1) the follow-
24 ing:

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

4 **SEC. 16. SEVERABILITY.**

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

9 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

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

12 **SEC. 18. EFFECTIVE DATES.**

13 (a) IN GENERAL.—Except as otherwise provided in
14 this section, the provisions of this Act shall take effect
15 1 year after the date of the enactment of this Act.

16 (b) ESTABLISHMENT OF OFFICE.—The provisions of
17 sections 6 and 17 shall take effect on the date of the en-
18 actment of this Act.

19 (c) REPEALS AND AMENDMENTS.—The repeals and
20 amendments made under sections 12, 13, and 14 of this
21 Act shall take effect as provided under subsection (a), ex-
22 cept that such repeals and amendments—

23 (1) shall not affect any proceeding or suit com-
24 menced before the effective date under subsection

25 (a), and in all such proceedings or suits, proceedings

1 shall be had, appeals taken, and judgments rendered
2 in the same manner and with the same effect as if
3 this Act had not been enacted; and

4 (2) shall not affect the requirements of Federal
5 agencies to compile, publish, and retain information
6 filed or received before the effective date of such re-
7 peals and amendments.

8 (d) REGULATIONS.—Proposed regulations required
9 to implement this Act shall be published for public com-
10 ment no later than 270 days after the date of the enact-
11 ment of this Act.

S 349 RS—2

S 349 RS—3