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DEC 19 1977

William P. Shattuck
Counsel
House Committee on the Judiciary
Subcommittee on Administrative
Law and Governmental Relations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Shattuck:

Pursuant to your discussion with Kenneth Mead of my staff, we have enclosed an original and copies of a document containing suggested language for the Committee Report on H.R. 8494, formerly H.R. 1180, the principal House lobbying disclosure proposal.

Part I (pages 1-10) contains a statement of justification for the legislation. Part II (pages 10-21) contains a discussion of the nature of the legislation and a summary of the bill's provisions. Parts III (pages 22-61) and IV (pages 62-67) concern, respectively, the bill's section-by-section analysis and a statement reflecting changes to the existing lobbying law.

We hope this information will prove useful to the Committee and we are ready to provide whatever additional assistance you might require.

Sincerely yours,

Paul

Paul G. Dembling
General Counsel

Enclosures - 4

95th Congress
1st Session

HOUSE OF REPRESENTATIVES

REPT. 95-____

PUBLIC DISCLOSURE OF LOBBYING ACT OF 1977

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_____. Ordered to be printed

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Mr. _____, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 8494, which on July 22, 1977, was referred to the Committee on the Judiciary]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8494) to provide more effective disclosure to Congress and the public of certain lobbying activities to influence issues before the Congress, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert:

[Full text of H.R. 8494, as amended, follows]

The purpose of H.R. 8494, as amended, is to replace the present lobbying disclosure law with a comprehensive new statute that specifies which organizations must register as lobbyists and what information they must disclose about their lobbying activities and related expenditures. It does not, in any manner, seek to regulate or prohibit lobbying itself.

It should be noted that the primary purpose of lobbying disclosure legislation is not the elimination of corrupt practices or unethical behavior. Although disclosure may have a limited effect on discouraging unlawful or unethical behavior, the basic purpose of lobbying disclosure is to inform the general public, including Members of Congress, of the nature and scope

of activities that constitute and characterize the bulk of lobbying campaigns. Lobbyists often perform a valuable public service, but the nature of lobbying activities is too often hidden from public view. Public officials have a right (and some might argue, a duty) to know who is behind the influences to which they are subjected on a daily basis. In addition, if the public decisionmaking process is to be an informed one, and if the citizenry is to properly evaluate the performance of public officials in that process, disclosure is essential.

I. NEED FOR LEGISLATION

A. Reasons for Requiring Disclosure of Lobbying Activities

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances."
> U.S. Constitution, Amendment I.

The right of an individual to petition the Government for a redress of grievances is fundamental to our democracy. The right to associate with others to petition the Government is equally important. Without easy and open communication between Congress and the public, Congress would be denied exposure to the information and the variety of viewpoints it must have to legislate effectively. The right of individuals to petition their government is part of the very foundation of our political process.

But, as then Judge Burger, speaking for the U.S. Court of Appeals for the District of Columbia Circuit, said, "Like other constitutional rights, the right to petition is subject to abuse and misuse.* * * " Liberty Lobby, Inc. v. Pearson, 390 F.2d 484, 491 (D.C. Cir. 1968). A democracy requires that the citizenry be free to petition the Government for a redress of its grievances, but a democracy must also insure that these petitions do not themselves become a grievance to the public interest.

Chief Justice Warren stated, speaking of the 1946 Lobbying Act:

> "Present-day legislative complexities are such that individual Members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise, the voice of the people may all too easily be drowned out by the voice of the special-interests group seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the Lobbying Act was designed to help prevent." United States v. Harriss, 347 U.S. 612, 625 (1954).

The House Committee on Standards of Official Conduct pointed out in a 1971 report that communication between the electorate and Congress has of necessity become more complex and institutionalized as government has responded to the needs of a growing and increasingly diverse electorate. (House Report No. 92-741.) Even with the advent of modern transportation, it is difficult for Members of Congress to have direct contact with more than a small fraction of their constituents. As a result, communications between the electorate and legislators are often condensed, channelled, and accomplished through organizations. As a House committee report concluded in 1951, the " * * * business of influencing legislation is dominated by group efforts." (Report of the House Committee on Lobbying Activities, House Report No. 81-3239.)

Efforts to influence Congress have, in fact, become big business. In 1950, a select House committee on lobbying activities concluded on the basis of its own research that, "If the full truth were ever known, this committee has little doubt that lobbying, and all its ramifications, would prove to be a billion-dollar industry." The total amount of money actually expended on lobbying must have significantly increased since this estimate was made in 1950. (General Interim Report of the House Select Committee on Lobbying Activities, House Report No. 3138, 81st Cong., 2d Sess., p. 8.) But it is impossible to accurately estimate the true extent of any lobbying effort because of the inadequacies of the present lobbying law.

The power of the modern lobbying organization may be vast. A lobbying organization can generate thousands of telegrams in a few days opposing or favoring a particular piece

of legislation. With the help of sophisticated computers, a lobbying organization can readily target hundreds of key individuals or organizations and solicit them to communicate with particularly influential or undecided Congressmen. At the request of a Senate Committee, the Library of Congress recently surveyed 115 large organizations that issue publications available to the Library, and which have a staff of 25 or more in Washington. The survey found that 38, or approximately one-third, of the organizations surveyed, used their publications to solicit their members to communicate with Congress. These 38 organizations had a combined membership of approximately 18 million individuals.

There is a strong consensus that a substantial public interest would be served by a reasonable lobbying disclosure law. Some of the reasons may be summarized as follows:

(1) Disclosure will enable Members of Congress, as they consider an issue before Congress, to understand more fully the actual nature and source of the lobbying on that issue. Lobbying legislation could insure disclosure of the identity of those persons that lobby directly for an organization. In addition, Congress is continually receiving letters or other communications on particular issues. The views expressed in a particular communication are no less valid because they are generated by an organization's grassroots efforts urging citizens to write Congress. In order to judge how representative of the general public as a whole are the views that it receives, Congress should know whether the communications are the spontaneous expression of the public's feelings, or whether they have been generated by the lobbying efforts of a particular interest.

(2) Disclosure of an organization's lobbying activities will help increase public confidence in government. Many Americans are concerned about the operations of governmental institutions. There is particular concern about the responsiveness of the Government to the interests of the average citizen. A Harris poll conducted in 1975 revealed that by a lopsided 72 percent to 9 percent, the public feels that "Congress is still too much under the influence of special-interest lobbies." (Harris Survey, April 7, 1975.) Removing the cloak of secrecy from efforts to influence issues before Congress could improve the public's confidence in the legislative process. Unjustified suspicions of improper behavior should be removed and better appreciation gained of how Congress seeks to develop, out of competing interests, legislation that is in the public interest.

(3) Disclosure will better inform the Congress and the general public as to which views are most represented before Congress, and how much money is expended to influence the outcome of issues before the Congress. Greater participation in the legislative process by other members of the public, including those with perhaps different views, will be encouraged.

(4) Disclosure should enhance the image of the lobbying community by removing the secrecy surrounding its activities. This will lead to a better understanding of the nature of the lobbying process and the role it plays in the overall legislative process.

B. Congressional Concern With Lobbying

The long history of congressional concern with lobbying reform legislation also underscores the urgent need for enactment of an effective lobbying disclosure law.

More than a century ago, the House passed a resolution requiring lobbyists to register during that Congress with the Clerk of the House. Since the advent of the 62nd Congress in 1911, Federal lobbying legislation has been introduced in practically every Congress.

Numerous congressional investigations of lobbying abuses have also been conducted. The first thorough congressional investigation of lobbying was undertaken in 1913 in response to President Wilson's charges of a massive grassroots lobbying effort by the tariff lobby. At that time, President Wilson stated:

> "Washington has seldom seen so numerous, so industrious, or so insidious a body. The newspapers are being filled with advertisements calculated to mislead the judgment not only of public men, but also the public opinion of the country itself. There is every evidence that money without limit is being spent to sustain this lobby and to create an appearance of a pressure of public opinion antagonistic to some of the chief items of the tariff. * * * It is thoroughly worth the while of the people of this country to take knowledge of the matter. Only public opinion can check and destroy it." (Literary

Digest, "The President's War on the Tariff Lobby," Vol. 64, No. 13, p. 1257, June 7, 1913.)

The committee investigating these practices submitted a report recommending enactment of lobbying legislation, but no law was passed. The bill failed, according to one source, because it "encountered unexpected opposition from farm and labor organizations whose representatives joined with other lobbyists in opposing it and succeeding in preventing it from coming to a final vote." (Editorial Research Reports, "Regulation of Congressional Lobbies," by R. Boeckel, March 7, 1928.)

Since 1913, committees in 25 separate Congresses have investigated particular allegations of lobbying abuses. A total of at least nine lobbying reform bills were reported out of committee in either the Senate or the House prior to 1946, but until that year no comprehensive law governing lobbying of the Congress was enacted.

In 1946, the Congress passed the present lobbying disclosure law as title III of the Legislative Reorganization Act. The law was intended to cover both direct lobbying solicitations and efforts to stimulate grassroots support or opposition to a particular issue before Congress. For reasons described in greater detail in the next section, the 1946 law did not prove effective, in part because the Supreme Court opinion in United States v. Harriss, previously cited, seriously limited the scope and effectiveness of the legislation. Soon after passage of the present lobbying law, Congress renewed its concern over lobbying practices and the need for effective disclosure legislation.

On numerous occasions since 1946, special, joint, or select committees of Congress have examined lobbying abuses and recommended either amending the 1946 law or replacing it altogether with an entirely new act.

For example, then Senator John Kennedy, in the course of an extensive study conducted by him of lobbying practices, emphasized in 1956 the defects and ineffectiveness of the 1946 law. The following year, a special Select Committee of the Senate, chaired by Senator John L. McClellan, criticized the 1946 Act as too vague and loosely defined. In the 85th Congress, the Senate Committee on Government Operations recommended a complete revision of the 1946 law. And

In 1970 the House Committee on Standards of Official Conduct recommended enactment of a new lobbying law. The Committee concluded:

> "Elementary to the consideration of any legislation is the simple question of whether any law at all is truly needed. Comparisons between the impact of lobbyists on the legislative process before 1946, when there was no law on the subject, and the improvements that followed passage of what has without exception been described to the committee as a thoroughly deficient law, lead to the conclusion that a more reasoned law will further improve the quality of our legislation." (Report of the House Committee on Official Standards and Conduct, 91st Cong., 2d Sess., House Report No. 91-1803, p. 2.)

Although Congress did not require disclosure of lobbyists' activities until 1946, most of the States had long before passed laws requiring some accountability by lobbyists. Lobbying measures are now operating in nearly every State in the Union. Since 1975, over half of the States have enacted new lobbying disclosure laws or substantially amended older ones to make them more effective.

In 1976, Congress itself came close to enacting a new and comprehensive lobbying disclosure law. In fact, both the House and the Senate passed separate measures, H.R. 15 and S. 2477, respectively, during the 94th Congress. Because the bills differed, a conference was necessary, but none was held due to procedural problems and the imminency of adjournment. Consequently, both bills died.

Early in the 95th Congress, however, lobbying disclosure measures were again introduced. Hearings were held by this Committee's Subcommittee on Administrative Law and Governmental Relations. Following extensive mark-up sessions, H.R. 1180, now H.R. 8494, was reported favorably from the Subcommittee. In a sense, H.R. 8494 marks the culmination of years of congressional effort to produce a reasonable, meaningful, and enforceable lobbying disclosure law.

C. Ineffectiveness of Present Law

The witnesses who appeared during the Administrative Law and Governmental Relations Subcommittee's hearings on lobbying

legislation were in virtually unanimous agreement that the present law is vague, ineffectual, and unenforceable. A study done by the General Accounting Office found enforcement of the Act to be practically nonexistent. This has been the conclusion, as well, of a number of congressional committees that have examined the effect of the present law. Among the major shortcomings of the Act, as interpreted by the Supreme Court in United States v. Harriss, previously cited, are the following:

(1) Groups that use their own funds to influence legislation are not required to register as lobbyists unless they solicit, collect, or receive funds from others for that purpose.

(2) The present law does not apply to organizations or individuals unless lobbying is their "principal purpose." There is a wide disparity in the way the "principal purpose" definition is interpreted. Due to the vagueness of the definition, many organizations do not register as lobbyists at all, concluding that lobbying is not their "principal purpose."

(3) The present law does not clearly cover efforts by a lobbyist that do not involve direct contact with Congressmen. Thus, lobbyists who attempt to influence Congress by soliciting others to communicate with Congress do not have to report their grassroots lobbying efforts.

(4) The present law does not clearly include lobbying communications with staff employees of Senators or Representatives. Thus, a very large portion of the lobbying process is outside the scope of the current Act's coverage.

(5) In general, the present law's reporting requirements are so vague and ambiguous that the lobbyists who do report often file incomplete information or interpret the disclosure requirements differently. Some groups consider far more types of expenses to be related to lobbying than others. As a result, it is difficult to make a meaningful comparison between the reports filed by any two lobbyists, or to reach any overall conclusions about the true nature or extent of the activities of those lobbyists who do register. The current Act also imposes very detailed and unworkable financial disclosure requirements. In many cases, each expenditure over $50 must be itemized. This discourages full and accurate financial reporting.

(6) No agency of the Federal Government is given clear responsibility and adequate investigatory powers to insure compliance with the present lobbying law.

The result is a law which is in effect no law at all.

When Common Cause appeared before the House Committee on Standards of Official Conduct, the organization gave the following example to demonstrate the inconsistent ways the present law is interpreted. The lobbying reports filed from 1974 to 1975 disclosed that in one major industry 60 corporations, and 16 related committees or associations, were represented in Washington by 222 individual lobbyists. Twenty-nine other firms disclosed that they engaged in lobbying work for the same corporations and related committees or associations. Yet, the total amount reportedly spent on lobbying by all these organizations and individuals combined was approximately half of what Common Cause, with just 14 lobbyists, reported spending in the same period. (Common Cause Testimony on Dec. 3, 1975, before the House Committee on Standards of Official Conduct on House Report 15, pp. 5-6.)

The interim report of the special Buchanan Committee concluded in 1950 that "filings under the Lobbying Act grossly understate the number and expenditures of pressure organizations, so too do individual registrations fail to reveal the actual number of persons actively engaged in seeking to influence the governmental process." (General Interim Report of the House Select Committee on Lobbying Activities, House of Representatives, 81st Cong., 2d Sess., House Report No. 3138, p. 8.)

In its final report in 1966, a special joint committee which investigated lobbying practices concluded that the current lobbying registrations "reveal only a small fraction of the money paid and received for lobbying activities." (Final Report of the Joint Committee on the Organization of the Congress, 89th Cong., 2d Sess., Senate Report No. 1414, p. 52.)

As serious as any other weakness in the 1946 Act is its failure to assign specific responsibility for enforcing its provisions. While registration statements and quarterly reports must be filed with the Secretary of the Senate and the Clerk of the House, these officials have no mandate to monitor compliance. Moreover, the Justice Department, which can prosecute violations of the Act, is not required to initiate on its own investigations of possible violations of the Act.

In April 1975, a General Accounting Office study concluded that during a particular quarterly filing period studied by the agency, 48 percent of the reports filed were incomplete and 61 percent were received late. The largest number of incomplete answers related to the questions seeking specific financial information. Nevertheless, the report found that incomplete reports filed with the Clerk of the House or the Secretary of the Senate are not returned to the lobbyist for completion unless the reports are improperly notarized or are unsigned. The General Accounting Office report found that between March 1972 and February 1975 only five lobbying complaints had been referred to the Justice Department.

II. SUMMARY AND NATURE OF PUBLIC DISCLOSURE OF LOBBYING ACT OF 1977

A. Summary of Legislation

H.R. 8494, as amended, may be divided into three main portions. The first portion defines what organizations must register and report as lobbyists. The second portion specifies what information must be provided in the annual registration and the quarterly reports filed by lobbying organizations. The third portion provides for administration and enforcement of the law by the General Accounting Office and the Department of Justice. Each of these major portions of the bill is summarized below.

Applicability of the bill

The bill's applicability is keyed to organizations that attempt to influence the legislative or executive branch of the Federal Government with respect to the content or disposition of certain legislative matters. Only an "organization," a term defined by the bill, can be required to register and report as a lobbyist. With the exception of foreign agents who lobby, an individual can never be required to register or report as a lobbyist.

Coverage of the bill is also closely tied to the expenditure of money by an organization to influence the decision-making process. For example, ad hoc, volunteer groups or other organizations that do not pay their officers, directors, workers, or others to lobby are not lobbyists within the meaning of the bill, regardless of the extent of the organization's lobbying activities. Thus, a sharp line is drawn between, on the one hand, organizations which pay people to lobby and, on the other hand, individual citizens, groups of individuals,

or organizations that lobby solely through others who volunteer their time on a noncompensable and nonreimbursable basis. An organization may become a lobbyist subject to the bill's registration and reporting requirements in either of two ways:

(1) It can retain a law firm, consulting firm, or other independent contractor, or an individual who is not otherwise an employee of the retaining organization, but the retaining organization must pay the retained individual, firm, or organization in excess of $2,500 in a quarterly filing period to lobby on its behalf.

(2) If the organization engages in direct lobbying activities through its own employees, then to qualify as a lobbyist subject to the bill's registration and reporting requirements, the organization must (a) employ one or more individuals who, in the aggregate, make oral or written lobbying communications on all or part of each of 13 days or more in a quarterly filing period; and (b) during the quarter referred to in (a), above, spend in excess of $2,500 to make lobbying communications.

The first threshold test, above, is based on how much an organization pays people outside the organization to lobby Federal officials on its behalf. It is the intent of the Committee that only the retaining organization on whose behalf the lobbying activities were performed will be required to register and report. A consulting firm, law firm, or other independent contractor that only engages in lobbying activities solely on behalf of its clients will not have to register or file quarterly reports under this bill.

The second threshold test, above, applies to organizations that lobby through their own employees. This threshold combines a financial test with a direct measure of a minimum number of oral or written lobbying communications made by the organization, through its paid directors, paid officers, and employees, over a period of days in a quarter.

Under this threshold, the lobbying must be done by paid officers, paid directors, or employees of the organization. Even if an organization has paid personnel, it would not be subject to the bill's registration and reporting requirements if the actual lobbying on behalf of the organization was conducted solely by volunteers who donated their time on a nonreimbursable basis. Unless there is an actual expenditure of money to compensate individuals (i.e., employees) who lobby and to pay for a lobbying effort, an organization cannot be a lobbyist. Unless the organization's employees in turn

cumulatively make a minimum number of efforts over a period of days to influence Congress, the organization cannot become a lobbyist. Finally, it is the employing organization--not the organization's employees--that must register and report as a lobbyist.

It should be noted that indirect or so-called "grassroots" lobbying is not a threshold for becoming a lobbyist. Indirect or grassroots lobbying generally means encouraging others through a solicitation, to communicate a position of the organization to Federal officers by, for example, mass mailings.

Lobbying activities covered by the bill include efforts, usually in the form of oral or written communications, to influence the content or disposition of any bill, resolution, treaty, nomination, legislative hearing, legislative report, or investigation in Congress. An organization may make inquiries about the status of legislation, or make communications solely at the request of a Member, officer, or employee of Congress without becoming a lobbyist.

In determining whether an organization is a lobbyist, all lobbying communications either with Members of Congress or with their personal or committee staff are included, except that an organization cannot become a lobbyist by just talking with the Senators, Representatives, or their personal staff, who represent the State (in the case of Senators), district, county, or Standard Metropolitan Statistical Area where the organization has its principal place of business. However, when considering the extent of coverage the bill provides for lobbying executive branch officials by organizations on legislative matters, it is important to recognize that only attempts to influence those executive branch officials listed in sections 5312 through 5316 of title 5, U.S. Code, are covered. The Comptroller General, the Deputy Comptroller General, the General Counsel of the General Accounting Office, and any General Accounting Office employee whose compensation is fixed in accordance with 31 U.S.C. §52b (i.e., at a rate equivalent to level IV of the Executive Schedule) are also officials covered by the bill.

Registration

An organization must register with the Comptroller General within 15 days after it becomes a lobbyist. Unless an organization ceases to engage in all lobbying activity and, accordingly, deregisters as prescribed in the bill, a registration statement

filed in any calendar year will remain effective until January 15 of the succeeding calendar year.

The registration statement must give basic information about the identity and nature of the organization and the identity of certain employees who have actually lobbied on the organization's behalf. In the case of organizations that retain others to lobby, certain of the people retained to lobby will be identified. The registration will also generally describe the internal procedures the organization follows when deciding what position to take on the issues that it lobbies.

Reporting

Any organization that is a lobbyist must file a report within 30 days following the end of each quarterly period in which its lobbying activities exceed the minimum threshold levels established in section 3 of the bill. If a registered lobbyist's activities in any quarter do not exceed these minimum levels, the lobbyist will file a statement to that effect with the Comptroller General.

The quarterly reports will identify the issues directly lobbied by the reporting organization's retained and employed individuals during the quarter to which the report relates. This disclosure requirement only applies, however, to those issues upon which the organization spent a significant amount of its lobbying efforts. The identity of certain of the retained and employed individuals who actually did the lobbying on the organization's behalf will be disclosed. If an organization retains others to do its lobbying, the report will provide some information about the expenditures made by the reporting organization and the retained individual in connection with his retention. A similar disclosure requirement applies to organizations that use their own employees to lobby.

A lobbying organization's quarterly report must also disclose the total expenditures the organization made with respect to its direct lobbying activities during the quarter to which the report relates. The reporting organization will not have to allocate expenditures by particular issue. Lobbyists must, however, report each gift of more than $35 if the organization or its employees or agents, on its behalf, made the gift to a Federal officer or employee.

Organizations that are lobbyists because they meet one of the bill's direct lobbying thresholds will also have to provide information on the lobbying solicitations in which

they engage. Information on particular lobbying solicitations is required only if the solicitation is expected to reach 500 or more persons, 25 or more of the organization's officers or directors, 100 or more of its employees, or 12 or more of its affiliates. The report must describe the issue involved, the general size of the lobbying campaign, whether it was conducted by phone, through the mail, or otherwise, and whether recipients of the solicitation were requested in turn to solicit others. The cost of any specific lobbying solicitation campaign must be given only where the effort cost more than $5,000.

Finally, each organization required by the bill to register as a lobbyist as well as each independent contractor retained to lobby on such organization's behalf is responsible for maintaining the records necessary to insure compliance with the bill's registration and reporting requirements.

Administration and enforcement

The General Accounting Office will have the responsibility for administering the new law. To carry out these responsibilities, the Comptroller General is given rulemaking authority and investigative powers subject to the procedural safeguards of the Administrative Procedure Act, 5 U.S.C. §§551-560. 1/ To insure that this rulemaking authority is not abused, a congressional veto provision has been included in the bill. To aid compliance with the law, the Comptroller General is given the authority to issue advisory opinions. A person to whom an adverse advisory opinion applies may file an action for declaratory judgment against the Comptroller General in Federal district court.

Section 11 of the bill requires the Comptroller General to report annually to both the President and the Congress as to his activities in administering the new law, together with his recommendations for appropriate legislation relating to the disclosure of lobbying activities.

The Comptroller General is empowered to conduct investigations into apparent violations of this Act. If, after such investigation, he ascertains that any organization or individual has engaged in activities that constitute a civil violation of the Act, he shall seek to correct the situation by informal

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1/ The Administrative Procedure Act, including the Freedom of Information and Privacy Acts, currently do not apply to the General Accounting Office.

methods of conference and conciliation. If these methods fail, the Comptroller General must refer the matter to the Attorney General. All apparent criminal violations must be referred immediately to the Attorney General.

In all cases referred by the Comptroller General to the Attorney General, the Department of Justice must periodically report back to the Comptroller General on the status of each referred case until it is finally resolved.

Both civil and criminal penalties are provided by the bill. The bill's civil and criminal fines range to a maximum of $10,000 for each violation, while the maximum prison sentence that may be imposed for each criminal violation shall not exceed 2 years.

B. Nature of Legislation

This legislation has been drafted to remedy the inadequacies of the present law, and to provide the Congress and the public necessary information about certain lobbying activities, while fully protecting the right of the individual to express his personal views to Congress.

(1) The bill defines a lobbyist in a way that will cover significant lobbying efforts by those organizations that spend money in a direct effort to influence Congress. At the same time, the bill's thresholds overcome the difficulties inherent in the current Act's principal purpose test. This is accomplished by imposing a standard that may be both easily and uniformly applied.

An organization that retains others to lobby on its behalf will be able to determine with little difficulty whether it is a lobbyist because it pays at least one retained agent more than $2,500 in a quarter to lobby.

An organization that does its own lobbying may easily determine whether it has one or more employees and whether it spent more than $2,500 in a quarter to lobby. It may similarly determine with little difficulty whether its employees cumulatively made oral or written lobbying communications on all or part of each of any 13 days in a given quarter. Once the organization passes this threshold, it is a lobbyist.

The threshold applicable to an organization that lobbies through its own employees also provides an accurate test of

the extent of an organization's efforts to influence Congress. The test, among other things, includes communications with staff as well as Members of Congress. Finally, the threshold is even-handed. It applies with equal force to all organizations similarly situated. It does not favor small organizations over large organizations, nonprofit organizations over profit making organizations, or organizations that pay relatively low salaries over organizations that pay relatively high salaries.

(2) Congressional committees that have recommended new lobbying legislation in this century have consistently recommended including disclosure of solicitations in any new legislation. This legislation will provide, for the first time, information on the extent of substantial efforts to generate through lobbying solicitations grassroots support for or opposition to a particular issue in Congress. The bill will ensure disclosure of enough information so that Congress and the public can determine the true nature, extent, and source of most lobbying solicitation campaigns.

Because the influence of lobbying solicitations on Congress is indirect, and because it is so easy for individuals to find themselves urging others to write Congress on an issue, special care was taken not to infringe upon any person's First Amendment rights. Accordingly, the bill strikes a careful balance between the desirability of public disclosure of such information and the undesirability of requiring persons to report every effort to encourage others to communicate with Congress. The bill therefore does not cover every organization that engages in lobbying solicitations. In addition, the bill does not require the citizens who respond to a solicitation to register and report as lobbyists. In fact, only those organizations that have met one of the bill's direct lobbying thresholds will have to report on their major indirect lobbying campaigns. The importance of learning about the major indirect lobbying efforts of these organizations is relatively great because their grassroots lobbying activities will, in all likelihood, contribute to, and in turn be benefited by, the organization's direct lobbying activities.

(3) The bill recognizes the special importance of the communications that occur between every Senator and Representative and his constituents. Individuals or organizations that only talk with their Senators or Representatives can never thereby become lobbyists, although any lobbying organization that urges or requests other organizations or individuals to communicate with their Congressmen may have to report its solicitation efforts. The bill also recognizes that because

of the highly interdependent nature of many areas of the country, an organization may in a sense be a constituent of congressmen other than those that represent the congressional district where the organization has its principal place of business. Accordingly, organizations that only communicate with the Senators or Representatives that represent in whole or in part the county or Standard Metropolitan Statistical Area where the organization is headquartered can never become lobbyists, because of such communications.

An individual may speak freely on his own behalf to any Senator or Representative to express his personal views or grievances without ever having to register and report. Even an organization that employs individuals to speak for it in Congress may talk to Congressmen, through these employees, up to an average of once a week in an effort to influence legislation without registering as a lobbyist. And such an organization may respond to specific inquiries for information from a Senator or Representative or his staff on an unlimited basis without having to register and report as a lobbyist.

(4) The bill's registration and reporting requirements are carefully designed to elicit the necessary information without unnecessary or duplicative filings. Rather than requiring both the organization that retains an individual to lobby, and the retained individual himself, to register and file a report, the bill imposes all registration and reporting requirements on the retaining organization alone. As a consequence, a single registration and report will serve to disclose to Congress and the public the extent and nature of an organization's lobbying activities.

By placing the registration and reporting requirements on the organization rather than on those who lobby on the organization's behalf, the burden is placed on the party best equipped to meet it. Yet once the organization passes the minimum threshold of activity necessary to make it a lobbyist, the bill's reporting requirements will, in general, require disclosure of the lobbying activities of those who have worked on behalf of the organization.

(5) The reporting requirements do not impose an undue burden on lobbying organizations. Lobbyists will not have to report on every solicitation, only those that are expected to reach a certain number of individuals. Logs of individual contacts will not be required. In other words, reports are not required to disclose the nature or substance of individual conversations, or the names of all people with whom the lobbyist

communicated. Detailed financial reports are avoided. Nor do the reporting requirements impose the burdensome and unworkable itemization of expenditures required under the present Act. On the other hand, the total direct lobbying expenditures of the organization are meaningful and comparatively easy to ascertain. Lobbying organizations will be required to disclose these total expenditures in their report.

(6) The bill imposes clear administrative responsibility for its enforcement on the Comptroller General. The Comptroller General will possess the administrative and investigative tools he must have to do an effective job. He will be able to conduct necessary investigations, issue necessary regulations and rules, and adopt necessary forms and procedures required to carry out the bill's purposes. He will have the power to issue advisory opinions so that any person in doubt about the effect of the law will be able to obtain a speedy and definitive advisory ruling. The bill will also place clear responsibility with the Department of Justice for enforcing the lobbying disclosure law in Federal court.

Only the Federal courts are empowered to adjudicate whether there is actually a violation of the bill's requirements. Any person to whom an adverse advisory opinion applies may obtain a declaratory judgment in district court. Criminal sanctions may be imposed only if the person is in knowing and willful violation of the bill.

Examples of who would be a lobbyist

The following are examples of who would be a lobbyist and who would not be a lobbyist under the bill's provisions:

(1) An individual citizen, concerned about the safety of children's toys, journeys to Washington and talks on his own behalf to staff assistants in the offices of 80 different Representatives or Senators. The citizen spends $3,000 in the process. The citizen is not a lobbyist because he is simply expressing, on his own behalf, his personal concern about a matter.

(2) A lawyer is retained by a company to obtain an amendment to a tax bill pending in the Congress. In connection with the services provided his client, the lawyer drafts proposed wording, and furnishes the wording to the staff of the appropriate committee. The company is a lobbyist, so long as it also pays the lawyer more than $2,500 for his work.

(3) An organization with no employees except for one paid director engages in lobbying through members who volunteer their time on a nonreimbursable basis. The volunteers talk to Federal officers and employees a total of 13 or more times in a quarter. And the communications are made on 13 or more days in the quarter. But the organization is not a lobbyist, since its lobbying is done exclusively by volunteers rather than employees.

(4) Employees of a national company call the staff of congressional committees on 20 occasions during a quarterly filing period in order to determine whether the committee has scheduled hearings on certain bills, and whether the committee has reported other measures out of committee. In addition, the company president testifies before the committee on a particular bill and also writes two letters to the chairmen of two committees on particular legislation. The company spends $2,500 on these activities and engages in no other communications with Federal officers.

The company is not a lobbyist. To be a lobbyist, organizations that do their own lobbying through employees must, in addition to spending more than $2,500 to lobby, engage in "lobbying communications" on all or part of each of any 13 days in a quarter. The 20 status inquiries do not qualify as "lobbying communications." They are not intended to influence the content of legislation. And the bill does not apply to communications such as public testimony. If the two letters from the company's president were not submitted for inclusion in the record, those communications might qualify as "lobbying communications." Nontheless, the company cannot become a lobbyist under the applicable threshold if it only makes two lobbying communications in a quarter.

(5) The president of an organization, who qualifies as an employee because he is paid, is concerned about the possible effect of a pending energy bill on the organization. He speaks in person or on the telephone with the two Senators and the Representative representing the district in which the organization is located. He talks about the bill a total of 15 times to those representatives or their personal staff assistants, but otherwise does no lobbying on the matter. Since the businessman only lobbies his own Congressmen, the organization of which he is president is not a lobbyist.

(6) Three employees of an organization call or write to committee staff aides a total of 20 times on 15 separate days in a quarterly filing period in an attempt to secure passage

of amendments to three different bills. The organization also spends more than $2,500 during the quarter on lobbying activity covered by the bill.

While none of the individuals would be a lobbyist, the organization is a lobbyist, since it spent more than $2,500 to lobby and its employees cumulatively engaged in lobbying communications on all or part of more than 13 days in the same quarter.

(7) Employees of an organization engage in frequent conversations with executive branch officials about rescinding an agency regulation. The organization does no other lobbying. Since the bill focuses on attempts to influence matters that are before Congress, the organization is not a lobbyist that must register and file a report.

(8) Employees of an organization urge various high-ranking executive branch officials on 10 separate days in a quarter to give testimony before Congress supporting particular legislation of interest to the organization. One employee also talks on 4 other days during the same quarterly period with members of the appropriate congressional committees or their staffs. Since the communications with the executive branch specifically urge officials covered by the bill to support pending legislation, they are lobbying communications for purposes of determining whether the organization is a lobbyist. Since the organization's employees cumulatively made at least one lobbying communication on each of at least 13 days in a quarter, the organization is a lobbyist, provided it spent more than $2,500 during the quarter to lobby.

(9) An organization that is a registered lobbyist solicits the presidents of its 50 unregistered affiliated organizations to communicate with Congress about pending legislation. The solicitation is made during the quarter in which the organization registered as a lobbyist. The member organizations in turn each talk to a Congressman about the issue, but none of them engages in any other lobbying activity during the quarter. The affiliates are not lobbyists. The organization that solicited its affiliates must include in its quarterly report, however, that as part of its lobbying activities it solicited them on a particular issue.

(10) A large national organization that is a lobbyist sends a letter to all 2,000 of its employees urging them to communicate with Congress about a bill directly affecting the company. One hundred of them do so. However, because the

communications were the direct consequence of a lobbying solicitation campaign, the employees who talk to Congress in response to the solicitation do not have to be individually identified on the company's lobbying report nor, of course, do they have to register as lobbyists. Rather, the organization's quarterly report must disclose certain information about the general nature and extent of the solicitation campaign.

(11) An organization's sole lobbying activity during a calendar year is the purchase of a $10,000 advertisement that urges the public to write Congress opposing a particular environmental bill. Since the organization does not meet either of the bill's direct lobbying thresholds, it is not a lobbyist subject to the bill's registration and reporting requirements.

(12) An organization that became a lobbyist during the first quarterly filing period in a year favors a certain energy policy. During the second quarterly filing period, the organization's sole lobbying activity consists of the purchase of a $10,000 newspaper advertisement that urges members of the public to write their Congressmen in support of certain energy legislation. Since the organization's activities in the second quarter do not meet the bill's threshold levels, the organization, although a lobbyist, will not have to file a report for that quarter or disclose information about the solicitation. Instead, the organization must file a statement with the Comptroller General to the effect that the bill's minimum threshold levels were not met during the quarter and that the organization therefore engaged in no reportable lobbying activity.

III. SECTION-BY-SECTION ANALYSIS

Section 2 -- Definitions

Section 2 defines twelve terms used in the bill:

(1) "affiliate" is defined to mean any organization that is formally associated with another organization whereby one such organization maintains actual control or has the right of potential control over all or part of the activities of the other organization. The key to this relationship is the element of control. The Committee recognizes that organizational operating structures vary significantly from one type of organization to another. In an effort to deal fairly with this situation, the Committee has included units of particular religious denominations as well as State and local units of national membership organizations, and organizations that are members of national trade associations, business leagues and labor organizations or federations within the definition of affiliate. In this way, the Committee has brought within the scope of the definition national organizations that are centrally organized or incorporated but whose members, from a functional standpoint, are really decentralized local affiliates of national organizations. Loose ad hoc alliances between independent but like-minded organizations are not, on the other hand, included. Likewise, an individual cannot be an affiliate.

Other provisions of the bill, together with the section analysis of those provisions, make clear that the Committee does not intend parent organizations to use the definition of affiliate to evade the bill's registration and reporting requirements. The Committee emphasizes this point because the lobbying activities of an affiliate are not always chargeable to the parent for threshold and reporting purposes. The lobbying activities of an affiliate may, instead, be chargeable only to the affiliate which, like its parent, will usually be an organization to which the bill's threshold and reporting provisions apply.

(2) "Comptroller General" means the Comptroller General of the United States.

(3) "direct business contact" is defined to mean the relationship between a Federal officer or employee 1/ and an

1/ The term "Federal officer or employee" is defined in subsection 2(6).

organization required to register under the bill wherein the Federal officer or employee is a partner, officer, director or employee of the organization or holds a legal or beneficial interest in the same business or joint venture, where such interest exceeds $1,000. This definition relates to the reporting provision in subsection 6(b)(8), which is intended to disclose potential conflict of interest situations.

It should be noted that stock holdings in publicly traded corporations, insurance policies, and commercial leases executed in the normal course of business on terms no more favorable than available generally at the time such leases were executed, have been excluded from the definition. The Committee feels that the factors excluded from the definition would be unlikely to create a true conflict of interest situation.

(4) "exempt travel expenses" are limited under this definition to travel expenses, for persons other than Federal officers or employees, that do not exceed the actual cost of transportation, plus a per diem allowance that does not exceed the standard amount payable to Government employees under 5 U.S.C. 5702(a). The purpose of this definition is to specifically exclude from the definition of "expenditure" in subsection 2(5) certain disbursements that could otherwise qualify as expenditures chargeable to an organization for threshold and disclosure purposes. Individuals who only receive reimbursement for the actual cost of transportation plus the per diem allowance prescribed by 5 U.S.C. §5702(a) do not thereby become "employees" of a lobbying organization.

The ability of an organization to treat expenditures as exempt travel expenses is limited. Where an individual who does lobbying for an organization in either a retained or employed capacity receives an amount in excess of the actual cost of transportation plus the prescribed per diem allowance, the retaining or employing organization will not be eligible to claim the excess payment as an exempt travel expense. In such event, the excess payment, assuming it otherwise qualifies as an expenditure under subsection 2(5), must be considered in determining whether the organization meets the quarterly expenditure thresholds in section 3.

(5) "expenditure" is defined to mean (A) a payment, distribution (other than normal dividends and interest), salary, loans made on terms or conditions more favorable than those available to the general public, advance, deposit, or gift of money or other thing of value, other than exempt travel expenses, made (i) to or for the benefit of a Federal officer

or employee; or (ii) for mailing, printing, advertising, telephones, consultant fees, or the like that are attributable to activities described in subsection 3(a), and for costs attributable partly to activities described in subsection 3(a), where such costs, with reasonable preciseness and ease, may be directly allocated to those activities; or (B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in (A), above.

The payment or distribution of normal dividends or interest is not to be included within the scope of the term "expenditure." Such distributions are made in the normal course of business and ordinarily have no substantial relation to an organization's lobbying activities.

The term "expenditure" does include salaries of employed persons and payments to retained persons to the extent that such salaries and payments are attributable to those activities described in subsection 3(a). Costs for mailing, printing, advertising, telephones, consultant fees or the like that are related to subsection 3(a) activities are included as well. Similarly, any contract or promise to pay for subsection 3(a) activities, whether or not legally enforceable, comes within the purview of the definition. However, the Committee does not intend that an organization's costs for other general operating expenses (i.e., office equipment, basic utilities and monthly rental or mortgage payments) be included within the scope of the definition on a pro rata basis or otherwise.

To determine the quarterly filing period in which an expenditure is to be counted (for threshold purposes) or disclosed (for reporting purposes), the earliest quarterly period possible under the organization's normal accounting procedures should be selected. This will usually mean that a liability incurred in one quarter will be considered an expenditure in that quarter, even if actual payment is not made until a later quarterly filing period.

The use of the term "expenditure" in the bill must be read in context. For example, the threshold applicable to organizations that lobby through their own employees cannot be met unless, among other things, the organization involved spends more than $2,500 in a quarter to make lobbying communications. The term "expenditure," as used in this particular threshold, does not include disbursements to individuals retained to lobby on the retaining organization's behalf. Similarly, the term "expenditure," as used in the threshold applicable to organizations that retain others to lobby, does not include disbursements to the retaining organization's

mployees. It should also be recognized that this aspect of the definition only covers expenditures attributable to an organization's direct lobbying activities. Costs solely attributable to a lobbying solicitation campaign therefore do not qualify as "expenditures".

(6) "Federal officer or employee" means any Member, Delegate, Resident Commissioner, officer or employee of the Congress, and any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code. The officers enumerated in these sections of the United States Code are those appointees listed in the executive schedule at levels I-V. Certain officers and employees of the General Accounting Office also qualify as Federal officers or employees, namely, the Comptroller General, the Deputy Comptroller General, the General Counsel, and any other GAO employee whose compensation is fixed by the Comptroller General in accordance with 31 U.S.C. §52b. Section 52b provides for the appointment of not more than five positions in the General Accounting Office at a rate not exceeding that prescribed for level IV of the Executive Schedule.

The term "Federal officer or employee" is of critical importance because only communications to those officials qualify as lobbying communications. The Committee has defined "Federal officer or employee" in a way that should enable lobbying organizations to determine readily when they are engaging in lobbying activity covered by the bill.

(7) "identification" is a term used throughout the bill, particularly in its registration and report disclosure provisions, that refers to both organizations and individuals. The definition includes a description of what must be disclosed in each instance where "identification" is called for. For example, subsection 4(b)(1) of the bill requires an "identification" of the registering lobbying organization. To comply with this registration disclosure requirement, the registering organization must disclose its name and address, its principal place of business, the general nature of its business, and the names of the organization's executive officers and directors. The names of an organization's executive officers and directors must be disclosed even though they are not paid.

(8) "lobbying communication" means an oral or written communication made on behalf of an organization by such organization's employees (including its paid directors and paid officers) or retained persons, that is directed to a Federal officer or employee to influence the content or disposition

of any bill, resolution, treaty, nomination, legislative hearing, legislative report, or investigation in Congress. Communications directed to a Federal officer or employee that do not concern these legislative matters but, instead, concern only the content or disposition of rules, regulations, executive orders, contracts, grants and like matters are not within the purview of this bill. It should also be recognized that the term "lobbying communication" does not include a communication that only seeks to determine the existence or status of a legislative matter. Such communications are not within the scope of the term because they are entirely informational and are not intended to have any influence on the legislative matter involved.

The Committee wishes to emphasize the meaning of several of the definition's operative phrases. First, a communication otherwise satisfying the definition of "lobbying communication," must be "directed to" a Federal officer or employee. The "directed to" language has the practical and legal effect of excluding solicitations from the definition's coverage. Second, only communications directed to a Federal officer or employee "to influence the content or disposition of any bill, resolution, treaty, nomination, legislative hearing, legislative report or investigation in Congress" can qualify as lobbying communications. The language "to influence" means to affect, or attempt to affect, whether by initiating, promoting, opposing, effectuating, delaying, altering, amending, withdrawing from consideration or otherwise, the content or disposition of the legislative matters set forth in the definition.

Some officials of the General Accounting Office and the executive branch also qualify as Federal officers or employees. Thus, communications directed to these officials may qualify as lobbying communications, provided the communication involved relates to the legislative matters described in subsection 2(8).

(9) "organization" is defined in subsection 2(9). Only an organization can be a lobbyist under this bill. With the exception of an agent of a foreign principal, as defined in 22 U.S.C. §611, an individual is not an organization and, hence, cannot become a lobbyist under the bill.

Organization is defined to include corporations, partnerships, firms, companies, foundations, associations, labor organizations, groups of organizations or groups of individuals. A sole proprietorship or firm also qualifies as an organization and if such proprietorship or firm meets a subsection 3(a) direct lobbying threshold, the bill's registration

and reporting requirements apply. An agent of a foreign principal, required to be registered under the Foreign Agents Registration Act (22 U.S.C. §611), shall be considered an organization for the purpose of this bill.

Federal, State, and local governments and units thereof are not organizations, nor are national or State political parties, or groups of Congressmen or congressional employees. The Committee clearly intends, however, that national associations of State or local elected or appointed officials, such as the National Governors' Conference or the United States Conference of Mayors, shall fall within the scope of the definition. Colleges and universities, including the State colleges and universities described in section 511(a)(2)(B) of the Internal Revenue Code of 1954, also fall within the definition of "organization." Government corporations are excluded from the definition.

(10) "quarterly filing period" means any calendar quarter beginning on January 1, April 1, July 1, or October 1.

(11) "solicitation" means an oral or written communication made on behalf of an organization that directly urges, requests, or requires another person to advocate a specific position on a particular issue in order to influence a Federal officer or employee. Communications by an organization that are only directed to a Federal officer or employee and which urge such officer or employee to advocate a position on an issue in order to influence other Federal officers and employees do not qualify as solicitations. These communications may instead fall within the bill's definition of lobbying communication.

To qualify as a solicitation, no specific words such as "write your Congressmen" have to be included in the communication, but there shall be no doubt that the communication is in fact urging, requesting, or requiring the recipient to communicate a position on an issue to a Federal officer or employee.

The Committee does not intend the term "solicitation" to cover indirect communications that concern nonlegislative matters. In short, only those communications that urge another to advocate a position on a legislative matter described in subsection 2(8) can fall within the definition of solicitation.

The Committee emphasizes that the definition of "solicitation" does not include oral or written communications by one organization registered under this bill to another registered organization. The Committee feels that since the registered

organization that received such a solicitation would ordinarily have to report on lobbying done in response to the solicitation, it is not necessary to require the registered organization making the solicitation to report thereon.

Finally, articles in an organization's newsletter or in a paid advertisement that merely seek to inform the reader about a legislative matter of the type described in subsection 2(8) would not constitute solicitations. But if, in addition to informing its readers, a paid advertisement directly requests its readers to communicate a stated position on an issue to a Federal officer or employee, the advertisement may then qualify as a solicitation.

This definitional section relates to subsection 6(b)(7) which, in turn, is aimed at obtaining the disclosure of information regarding a registered organization's indirect, grassroots lobbying efforts (i.e., solicitations) in the soliciting organization's quarterly report. The Committee has rejected the idea of making solicitations a threshold for determining which organizations must register. Rather, under the bill, once an organization meets a subsection 3(a) direct lobbying threshold in a quarterly filing period, it then and only then must report about certain solicitations it made during such quarter.

(11) "State" is defined to mean any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Section 3 -- Applicability of Act

Section 3 establishes which organizations (§2(9)) must register and report as lobbyists.

Subsection 3(a)(1) -- Threshold test applicable to organizations that retain others to lobby

Subsection 3(a)(1) establishes the first of the two minimum direct lobbying threshold levels that, if met, will require an organization to register and report as a lobbyist. The subsection establishes, as a minimum threshold or "trigger," expenditures (§2(5)) in excess of $2,500 for any quarterly filing period for the retention of another person, such as a law firm, consulting firm, independent contractor, or individual who is not otherwise an employee of the retaining organization,

to engage in those direct lobbying activities covered by the bill.

This threshold is to be construed as an aggregate expenditure test. If an organization spends $1,000 and 1,600, respectively, for the retention of two different persons during a single quarterly filing period to lobby on its behalf, the threshold will have been met and the retaining organization must register and report as a lobbyist. If an organization fails to spend more than $2,500, it cannot become a lobbyist under subsection 3(a)(1). For example, if an organization retains a law firm or consultant to undertake a variety of activities, coverage is extended only where the amount expended on lobbying related activity exceeds $2,500, irrespective of the total amount of the retainer involved.

Expenditures made to a retained person for work done as a necessary part of the retaining organization's direct lobbying activities must be included in determining whether the retaining organization meets the threshold. For example, if a lawyer retained by an organization studies a particular bill, consults with his client about the matter, and then talks with congressmen about proposed amendments to the bill, the total amount expended by the retaining organization for this work would be included in determining whether the organization spent more than $2,500 in connection with the retention to lobby in a quarterly filing period. As the definition of expenditure indicates, disbursements to the retained person for mailing, printing, and the like, as well as "retainer" fees, must be considered (if they are related to the preparing, drafting, or making of lobbying communications) in determining whether the threshold has been met.

In order for an organization to become a lobbyist under this threshold, at least one retained person must actually make one or more lobbying communications on behalf of the retaining organization. The communication may be either written or oral. If a lawyer studies a bill and talks with his client about the bill, but never engages in a written or oral lobbying communication in connection with it, the retaining organization would not be a lobbyist under subsection 3(a)(1) (assuming it made no lobbying communications through other retained persons), regardless of the amount of money it paid the lawyer.

The language in subsection 3(a)(1) covering work done "for the express purpose of preparing or drafting any such lobbying communication" is intended to apply to the preparation of the oral or written lobbying communications that are actually

communicated to Federal officers and employees on the retaining organization's behalf.

The Committee believes that work performed in the preparation of lobbying communications is integral to the lobbying process and frequently accounts for as great a proportion of money expended for lobbying as does the actual "contact" work itself. It is not the Committee's intent, however, to reach beyond those activities that are directly related to the lobbying process. Thus, expenditures for work performed in the preparation of factual reports on governmental developments, analyses of issues pending before the legislative branch, or research of a legal, economic, technical or scientific nature would not be included, unless such work was performed at least in part for use in the preparation or drafting of lobbying communications. Money spent for reviewing reports, analyses, etc., not originally created for use in connection with a lobbying communication, for the purpose of including part or the whole of such materials in a lobbying communication, are covered by the threshold, even though the original expenditures for creating the materials might not be covered.

In determining whether the threshold applicable to organizations that retain others to lobby has been met, subsection 3(a)(1) must be read in conjunction with subsection 3(b), which provides certain express exemptions from coverage. The subsection 3(b) exemptions, which are discussed later in this report, have the effect of excluding certain communications and expenditures solely attributable to such communications from consideration when determining whether an organization has satisfied a threshold test. In short, communications that may appear to qualify as lobbying communications under subsection 2(8) may be exempt under subsection 3(b) from inclusion in a subsection 3(a)(1) threshold tally. It is also important, when considering communications directed to executive branch personnel by an organization's retained persons, to keep in mind exactly which Government personnel are included in the term "Federal officer or employee" (§2(6)).

Subsection 3(a)(2) -- Threshold test applicable to organizations that lobby through their own employees

This subsection establishes the second of the two minimum direct lobbying threshold levels that, if met, will require an organization to register and report as a lobbyist. Subsection 3(a)(1) established the threshold for organizations that retain persons who are not otherwise employees of the retaining organization to lobby. Subsection 3(a)(2) is designed to create a minimum coverage level below which an organization

will not be required to register or report for the lobbying activities of its own employees.

To be covered under this test, an organization would have to: (A) employ one or more individuals who, in the aggregate, on all or part of each of thirteen days or more in any quarterly filing period, make lobbying communications on behalf of the organization; and (B) spend more than $2,500 in the quarterly filing period referred to in (A), above, on making lobbying communications.

Subsection 3(a)(2) specifies what activities will result in the requirement that an organization that uses its own employees to lobby must register and report as a lobbyist.

Part A of the threshold can only be met if an organization, through its employees, makes a minimum of 13 oral or written lobbying communications in a quarter, and at least one such communication must be made on each of any thirteen days or more in a quarter. If the organization's employees do not engage in these minimum levels of lobbying activity, the organization cannot become a lobbyist under the threshold, regardless of the amount of money it spends. This threshold is cumulative. For example, if an organization has two employees, one of whom makes a lobbying communication on January 1, 2, 3, 4, 5, and 6 and the other who makes a lobbying communication on January 7, 8, 9, 10, 11, 12, and 13, the employing organization will be a lobbyist, assuming it meets the quarterly expenditure test in Part B of the threshold. On the other hand, if the employees made the 13 lobbying communications during the period January 1-6 and engaged in no other lobbying communications during that quarter, the employing organization would not be a lobbyist under this threshold. Thus, once the organization determines that one lobbying communication was made on a given day in a quarterly filing period, it will not be necessary to compute the number of lobbying communications made on that day.

The language "make lobbying communications" in Part A of the threshold is not to be construed as including days on which an organization's employees only prepare (i.e., research and draft) lobbying communications. In short, Part A of the threshold only covers the days on which actual written or oral communication with Federal officers or employees occurs.

An organization cannot become a lobbyist under subsection 3(a)(2) unless it meets both Parts A and B of the threshold during the same quarterly filing period. Part B contains

a quarterly expenditure test which is met when an organization spends more than $2,500 in a quarter on making lobbying communications. The committee intends that this be construed as an aggregate expenditure test. If, during one quarterly filing period, an organization spends $1,000 for one lobbying communication and cumulatively spends $1,600 for 12 other lobbying communications, then the expenditure test or Part B of the thesh-old will have been met. If Part A of the threshold is also satisfied during the same quarterly filing period, the organization must register and report as a lobbyist. If an organization fails to spend more than $2,500 for lobbying communications, it would not be a lobbyist under this threshold even if its employees made a lobbying communication on each day of the quarter.

The language "on making lobbying communications" in Part B of the threshold carries a somewhat different meaning than the "make lobbying communications" language of Part A. The language in Part A only covers actual contacts, whether they be oral or in writing, with Federal officers or employees. The language in Part A does not include days on which an organization's employees merely do research or drafting work preparatory to the actual contact or communication. The language in Part B, however, covers expenditures for work done as a necessary part of the organization's direct lobbying activities and these expenditures must be considered in determining whether the organization meets Part B of the threshold. For example, if an employee studies a particular bill, consults with his supervisors about the matter, and then talks with congressmen about proposed amendments to the bill, the organization's total expenditure for this work would be considered in determining whether the organization spent more than $2,500 in the quarter on making lobbying communications. As the definition of expenditure indicates, disbursements for mailing, printing, and the like, as well as salaries, must be considered if they are directly related to the organization's lobbying communications.

The Committee intends Part B of the threshold to apply to expenditures made for the preparation of the oral or written lobbying communications made on behalf of the organization. These expenditures would include, for example, disbursements by a lobbying organization to a firm to research, prepare, or draft lobbying communications to be made by an organization's employees.

The Committee believes that work performed in the preparation of lobbying communications is integral to the lobbying process and frequently accounts for as great a proportion of money expended for lobbying as does the actual "contact"

work itself. It is not the Committee's intent, however, to reach beyond those activities that are directly related to the lobbying process. Thus, expenditures for work performed in the preparation of factual reports on governmental developments, analyses of issues pending before the legislative branch, or research of a legal, economic, technical or scientific nature would not be included unless such work was performed at least in part for the express purpose of preparing or drafting lobbying communications. However, money spent in reviewing reports, analyses, etc., not originally created for use in connection with a lobbying communication, for the purpose of including such material in a lobbying communication, will be considered expenditures under Part B of the threshold.

In determining whether Parts A and B of the threshold applicable to organizations that use their own employees to lobby has been met, subsection 3(a)(2) must be read in conjunction with subsection 3(b), which provides certain express exemptions from coverage. The subsection 3(b) exemptions, which are discussed later in this report, have the practical effect of excluding certain communications as well as expenditures solely attributable to such communications from consideration when determining whether an organization has satisfied a threshold test. Communications that may appear to qualify as lobbying communications under subsection 2(8) may therefore be exempt under subsection 3(b) from inclusion in a subsection 3(a)(2) threshold tally.

Finally, subsection 3(a) provides an alternative for those organizations that engage in a coordinated lobbying effort with their affiliates. Under this subsection, even if an affiliate engages in lobbying activities, such activities would not be reportable by the affiliate if they are, in fact, reported by the registered "parent" organization in accordance with the bill. Pursuant to this provision, the option is given to the registered parent organization whether it or the affiliate will report on the affiliate's lobbying activities. This option does not come into play unless the affiliate's lobbying activities exceed the minimum thresholds established by the bill. Thus, if the affiliate's lobbying efforts fail to exceed either of the bill's thresholds, neither the registered "parent" organization nor the affiliate need report the affiliate's activities. This subsection differs from subsection 6(b)(7) in that the latter deals with the situation where a registered organization directs an unregistered affiliate to solicit others. Subsection 3(a) concerns the situation where the affiliate communicates directly with a Federal officer or employee. Consequently, there is no direct overlap between the two subsections. It should also be recognized

that the subsection 3(a) thresholds are not intended to apply to organizations that only perform lobbying services in a retained capacity.

Subsection 3(b) -- Exclusions from Coverage

This subsection exempts certain communications from coverage under the bill. As previously indicated, communications exempted under subsection 3(b) are not to be considered when determining whether an organization meets one of the bill's lobbying thresholds. Similarly, expenditures incurred solely in connection with or solely as a result of communications excluded from coverage under subsection 3(b) are not to be computed in determining whether an organization meets the bill's quarterly expenditure tests.

Paragraph (1) provides that communications (A) made at the request of a Federal officer or employee, (B) submitted for inclusion in a report, or (C) submitted for inclusion in the record or public file of a hearing are exempt from coverage. This exemption includes testimony before a Congressional Committee, as well as written statements submitted for the record of a hearing. The exemption for communications "made at the request of a Federal officer or employee" only applies to communications made solely in response to a specific request for information or views on a specific subject matter. This exemption is not necessarily limited to communications made to the requesting Federal officer or employee. If a Congressman, for example, requests an organization to communicate information on a specific subject matter to himself and other designated Federal officers or employees, communications made by the organization solely in response to the Congressman's request would be exempt. Money expended solely to prepare, draft, or make exempt communications is not to be included in the computation of the quarterly expenditure tests in subsection 3(a).

Paragraph (2) exempts communications or solicitations made through a speech or address, publications of general distribution to the public or through the mass media. Communications made through a regular publication of an organization are also exempt, provided the publication and edition of the publication involved is published in substantial part for purposes unrelated to influencing legislative matters of the type described in subsection 2(8).

The Committee is concerned that the registration and disclosure provisions of this bill should not infringe upon the First Amendment rights of a free press. This subsection

acknowledges that when a free press expresses its independent views on issues before Congress it does not purport to act as a lobbyist for any particular organization. This includes, for example, small town newspapers as well as large city dailies. Thus, a solicitation contained in an editorial of a newspaper distributed to the general public would not be a lobbying solicitation under this bill. Free distribution or occasional sales of an organization's publication to libraries or otherwise to the public, however, is not sufficient to convert an organization's newsletter into a newspaper of general distribution. Paid advertisements and paid publications in the mass media or in a publication of general distribution to the public are also considered lobbying solicitations that do not fall within this exemption. Where an organization pays for an advertisement in a newspaper and the advertisement urges the public to write to Congress on a particular issue, the organization that placed the ad, not the newspaper, would be responsible for complying with the bill's disclosure provisions.

Paragraph (3) provides that communications by an individual to express his personal opinion or to redress grievances are not within the purview of this bill. It is a basic principle of the bill that only communications or solicitations made on behalf of an organization are covered.

An individual who is an officer, director, or employee of an organization should not be presumed to be speaking on behalf of his organization in every instance. He is entitled as an individual citizen to express his views on many matters which are of no interest to his organization. However, where the employing organization is economically affected by the issue before Congress, or where the organization's interests or positions directly relate to the issue, and the person making the communication is an officer of the organization, the likelihood is that he is speaking on behalf of the organization, whether or not he specifically says so. In short, for a communication by an employee (including paid officers and paid directors) to be considered to be on behalf of an organization, the individual does not have to declare expressly that his statements are on behalf of the organization. The general test should be whether the communication is made for the organization pursuant to the employee's general or specific responsibilities as an employee. Someone who is an employee of a large corporation may write Congress on his own to oppose a particular bill on the grounds that it may cause him to lose his job. In all likelihood, this would not be a communication made on behalf of the organization. If, however, the organization urges 100 or more of its employees to communicate to Congress opposition to the same bill on the same grounds, the

organization's request could qualify as a solicitation under the bill. The Committee emphasizes that it is the employing organization--never the organization's employees--who must register and report as a lobbyist under this bill.

Paragraph (4) exempts those practices or activities regulated by the Federal Election Campaign Act of 1971, as amended. This exemption is intended to draw a clear line between lobbying legislation and the Federal legislation, above, which governs political parties and political elections. If an activity of an organization is regulated by the Federal Election Campaign law, the activity is not within the purview of the bill.

Paragraph (5) exempts from coverage communications by an organization that are directed to the Representative or Representatives that represent in whole or in part the congressional district, county, or Standard Metropolitan Statistical Area where the communicating organization maintains its principal place of business. Also exempted are communications by an organization that are directed to the Senators who represent in whole or in part the State, county, or Standard Metropolitan Statistical Area, where the communicating organization maintains its principal place of business. If a communication is exempt when directed to a Senator or Representative under this provision, it would also be exempt if directed to the personal staff of any such Member. Solicitations directed to an unregistered affiliate must be disclosed by the soliciting organization in accordance with subsection 6(b)(7), even though communications made in response to the solicitation might be exempt under paragraph 5.

The term "principal place of business" is a well-recognized concept used in other Federal statutes such as the law governing the jurisdiction of Federal courts in the case of diversity of citizenship (28 U.S.C. 1332), and the Federal Bankruptcy Act (11 U.S.C. 11). If an organization has employees located in several States, the organization should determine its principal place of business by reference to where the bulk of the organization's activity takes place. If the bulk of the organization's activity takes place in a single location, this would be the organization's principal place of business. If the organization's activities are too diffuse to allow this conclusion, then the organization should select the place where its chief executive officer conducts business or where its headquarters, or home office, is located.

Additional Exclusions from Coverage

Although subsection 3(b) provides express exemptions from coverage, it is important to recognize that certain implicit exemptions exist in the bill.

Coverage does not include a communication that simply inquires as to the status or subject matter of a legislative matter described in subsection 2(8). These communications do not qualify as "lobbying communications" and are excluded from coverage because they are entirely information-seeking and are not intended to influence the content or disposition of the legislative matter involved.

Another implicit exemption relates to communications or solicitations made by an officer or employee of the Federal Government in his official capacity. Such officers and employees, including Members of Congress, do not meet the definitional requirements of the term "organization" and consequently do not fall within the purview of this bill. This does not imply, however, that it is lawful for Federal officials to engage in lobbying communications or solicitations in a manner prohibited by section 1913 of title 18 of the U.S. Code, which governs the lobbying of Congress with appropriated funds. In short, this implicit exemption from the bill does not affect the application of section 1913 in any way.

State and local units of government also do not qualify as "organizations." 1/ Since the bill only applies to organizations, communications or solicitations made by an individual directly employed by a State or local unit of government, acting in his official capacity, are implicitly excluded from coverage. Individuals who work directly for a State or local government are included within this implicit exemption, whether they work under contract, or under the State or local government's civil service rules. The statements of an elected official or employee of a State or city would also be exempt. An individual who is selected by a particular city or other local governmental unit to speak specifically on behalf of that particular governmental entity on a full or part-time basis would be exempted. On the other hand, when an employee of an organization lobbies for an organization which is not itself a State or local government, the exemption would not apply.

1/ Colleges and universities, including those State colleges or universities described in section 511(a)(2)(B) of the Internal Revenue Code, do satisfy the bill's definition of "organization" and, hence, can become lobbyists subject to the bill's registration and reporting requirements.

Finally, the bill does not apply to any national or State political party or any organizational unit thereof. Thus, communications or solicitations made by a candidate for political office in his capacity as a candidate of a political party for such office, or communications or solicitations by a political party or organizational unit thereof regarding such party's activities, policies, statements, programs or platforms, do not qualify as "lobbying communications" under this bill.

Section 4 -- Registration

Section 4 specifies the information that an organization must include in its registration statement and establishes the period for which the registration statement shall remain in force.

Subsection 4(a)

This subsection requires that each organization file a registration statement with the Comptroller General within 15 days after it initially becomes a lobbyist. An organization becomes a lobbyist when it meets a subsection 3(a) lobbying threshold.

Subsection 4(b)

This subsection specifies the information required to be disclosed in each organization's registration statement.

Paragraph (1) requires each registering lobbying organization to identify itself. Subsection 2(7) spells out in greater detail what information must be included in the identification. The identification must include the name and address of the registering organization, the organization's principal place of business, the nature of the organization's business or activities, and the names of the organization's executive officers and directors, whether or not such officers or directors are paid.

Paragraph (1) also requires that lobbying organization registration statements describe generally the methods by which the registering organization arrives at a position on issues with respect to which it makes lobbying communications or solicitations. This description need not include details of intra-organization communications, nor a separate description of how the organization adopts its position with respect to each particular issue lobbied. Rather, it will be adequate to give a general description of the decision-making procedures

customarily followed, and a general indication of the ways in which the different segments of the organization participate in the process.

Paragraph (2) establishes two registration statement disclosure requirements. The first clause of paragraph (2) calls for the identification of those persons who are retained by the registering organization to prepare, draft, or make lobbying communications and who in fact did prepare, draft, or make lobbying communications on the registering organization's behalf. If the registering organization does not meet the subsection 3(a)(1) retention threshold, the identification requirements of the first clause of paragraph (2) do not apply. The second clause of paragraph (2) calls for the identification of any of the registering organization's employees (including the registering organization's paid directors and paid officers) who made lobbying communications on behalf of the registering organization. The disclosure requirements of the second clause of paragraph (2) only apply to organizations that qualify as lobbyists under subsection 3(a)(2). This disclosure requirement does not apply, however, to employees who draft or prepare, but never actually make, a lobbying communication.

Subsection 2(7) spells out in greater detail what must be included in the identification of employees and retained persons required to be identified under subsection 4(b)(2). For example, if an organization retains a partner in a law firm to lobby and then qualifies as a lobbyist under subsection 3(a)(1), the retaining organization's registration statement must disclose, among other matters, the identity of both the partner and the law firm.

Subsection 4(c)

Unless an organization deregisters under subsection 4(d), registration statements filed in a given calendar year shall be effective until January 15 of the succeeding calendar year. The registration must thereafter be renewed on an annual basis as required by subsections 4(a) and 4(b). Thus, if an organization meets the lobbying threshold established by subsection 3(a)(2) during the first 13 days of the succeeding calendar year, the organization would have to renew its registration statement no later than January 30. Organizations that meet neither of the subsection 3(a) thresholds during any quarterly filing period of the succeeding calendar year are not required to file a new registration statement. Such an organization would have to register within 15 days, however, after any renewed lobbying activities made it a lobbyist once again under subsection 3(a).

When an organization registers as a lobbyist in a calendar year in accordance with section 4, it will not have to reregister or update its registration later in such calendar year. There are two important exceptions to this rule. First, if a registered lobbying organization changes its corporate name or address, an amendment to the organization's registration statement reflecting such name or address change must be filed with the Comptroller General when the change occurs. Second, if a lobbying organization deregisters under subsection 4(d) and subsequently crosses a subsection 3(a) theshold during the calendar year in which it deregistered, a new registration statement must be filed.

Subsection 4(d)

This subsection provides that a registered organization may deregister if it determines in good faith that it will make no lobbying communications during the remainder of the calendar year in which its registration statement was filed. When the Comptroller General receives the organization's deregistration notification, the registration of such organization shall cease to be effective. A resumption of lobbying activity following deregistration could again trigger the bill's registration requirements, provided the organization, subsequent to deregistration, meets a subsection 3(a) lobbying threshold. Subsection 4(d) also specifies the information required to be included in or appended to an organization's deregistration notification.

Section 5 -- Records

Section 5 establishes who will be responsible for maintaining records pursuant to the bill, the types of records that must be maintained, and the period for which such records must be retained.

Subsection 5(a)

Each organization required to be registered under the bill, as well as each person retained by such an organization to engage in activities covered by the bill, is responsible for maintaining those records that are necessary to insure compliance with the bill's registration and reporting requirements. In addition, officers, directors, and employees must provide their employer the information necessary for the employing organization to comply with the bill's recordkeeping and reporting requirements. Likewise, when a registered organization either elects or is required to report on the lobbying

activities of its affiliates, those affiliates shall be responsible for maintaining records necessary to enable the reporting organization to discharge fully the reporting obligations applicable to affiliates.

Records that involve financial matters subject to the bill's registration and disclosure provisions must be kept in accordance with generally accepted accounting principles. If an organization keeps its financial books in accordance with accounting principles accepted by the Internal Revenue Service, this method of keeping financial records should suffice for purposes of this bill as well. Many organizations that will register under this law use the accrual method of accounting. Those same principles should govern the manner in which financial records are kept under this bill.

Subsection 8(a)(7) gives the Comptroller General the authority and responsibility to issue regulations implementing section 5. The Committee wants adequate records to be maintained, but it does not wish to impose unnecessary recordkeeping burdens. For this reason, subsection 5(a) specifically provides that the Comptroller General may not by rule or regulation require an organization to maintain or establish records (other than those records normally maintained by the organization) simply for the purpose of enabling him to determine whether an organization is required to register under section 4.

Subsection 5(b)

This subsection provides that an organization which relies in good faith upon the information provided by its officers, directors, employees, or retainees concerning their lobbying activities shall, with respect to that information, be deemed to have complied with section 5's recordkeeping requirements. An organization's exercise of due diligence in complying with the bill's recordkeeping requirements is a factor to be considered when determining whether an organization relied in good faith upon information provided by its officers, directors, employees, or retainees. Subsection 13(c) provides civil and criminal penalties for the knowing and willful failure to provide, or the falsification of, records required to be furnished to an employing or retaining organization by such organization's officers, directors, employees, or retainees.

Subsection 5(c)

This subsection provides that lobbying organizations preserve the records required to be maintained under section 5 for a period of not less than five years after the close of the quarterly filing period to which the records relate. This five year record retention period corresponds to the maximum statutory period for criminal prosecutions under section 3282 of title 18, U.S. Code.

Section 6 -- Reports

The bill's quarterly reporting requirements are described in section 6.

Subsection 6(a)(1) -- Quarterly Report Filing Requirements

Subsection 6(a)(1) provides that within 30 days after the close of any quarterly filing period during which an organization's lobbying activities qualified it as a lobbyist under either or both of the subsection 3(a) thresholds, the organization must file a report with the Comptroller General covering its lobbying activities during that quarterly period. Though an organization registers and reports as a lobbyist in one quarter, it must file a quarterly report for any subsequent quarter only if its lobbying activities, in that subsequent quarter, meet a subsection 3(a) lobbying threshold. When an organization's lobbying activities in a particular quarter meet neither of the subsection 3(a) thresholds, the organization need not file a report for that quarter, even though it is a registered lobbyist.

Subsection 6(a)(2) -- Notification of No Reportable Lobbying Activity

This subsection covers registered lobbying organizations that do not meet a subsection 3(a) lobbying threshold during a quarterly filing period. Such a lobbying organization must file a statement with the Comptroller General to the effect that during such quarterly filing period it engaged in no reportable lobbying activity. The Committee emphasizes that the filing of a statement under this subsection does not constitute deregistration. Organizations may deregister only by following the procedures described in subsection 4(d).

Subsection 6(b) -- General Reporting Requirements

This subsection describes the information that must be disclosed in an organization's quarterly report.

Subsection 6(b)(1) -- Identification of Reporting Organization

This subsection calls for an identification of the organization filing the report. As in the notice of registration, this identification would include the name of the reporting organization, its address and principal place of business, the nature of its business or activities, and the names of its executive officers and directors, whether or not such officers or directors are paid. See subsection 2(7).

Subsection 6(b)(2) -- Report of Direct Lobbying Activity Expenditures

This subsection calls for the disclosure of the total expenditures an organization made during the quarterly filing period for lobbying activities, other than solicitations, that are covered by the bill. This requires disclosure of expenditures related to lobbying, including costs for mailing, printing, advertising, telephones, consultant fees, gifts or other expenditures made to or for the benefit of Federal officers or employees, related research fees, and certain salaries, where such costs with reasonable precision and ease may be allocated to lobbying activities. The Committee realizes that it will be difficult to calculate a mathematically precise figure representing the organization's total lobbying expenditures. Consequently, a good faith estimate that can be documented as reasonably accurate will satisfy this disclosure requirement.

It is not the intent of this subsection to require an organization to compute the precise cost of each telephone call to a Federal officer or employee or to determine the exact cost, in terms of salary allocations, of every contact with a Federal officer or employee. An organization's reasonable approximation of its total reportable incidental expenditures should suffice for purposes of this subsection. This approach to disclosure should avoid detailed recordkeeping and burdensome reporting on minor and peripheral activities. The Comptroller General should issue practical and enforceable regulations implementing subsection 6(b)(2) with this in mind.

Costs solely attributable to solicitations, as well as the salaries of employees not reportable under subsection 6(b)(5), are not subject to subsection 6(b)(2)'s expenditure disclosure requirement. Expenditures made solely to influence

the Federal officers and employees described in subsections 2(6)(C) and (D) are also not reportable under this subsection. Costs incurred solely in connection with the making of communications exempt under subsection 3(b) are not reportable for any purpose.

Finally, the Committee emphasizes that the figures required to be disclosed in the organization's quarterly report under subsection 6(b)(2) need only be total figures. No itemization in the report is required and the total amounts reported need only represent a reasonable good faith approximation.

Subsection 6(b)(3) -- Report of Expenditures to Federal Officers or Employees

This subsection calls for an itemized listing of each expenditure in excess of $35 made to or for the benefit of any Federal officer or employee. See subsection 2(5)(A)(1). This itemization shall include an identification of the recipient officer or employee. It should be noted that this reporting requirement only applies to expenditures that are individually in excess of $35.

The itemization provisions of this subsection apply as well to gifts, honoraria, and loans (that are provided on terms more favorable than available generally). Gifts, loans, honoraria, or other expenditures made indirectly as well as directly to a Federal officer or employee are covered. Thus, where a Federal officer and his wife are taken to dinner by a lobbyist, the combined cost of the dinner for the Federal officer and his wife must be disclosed if the combined cost exceeds $35.

This subsection also covers gifts, honoraria, loans, (on conditions more favorable than available to the public generally) and other expenditures that do not involve the actual receipt of money by the recipient Federal officer or employee. This would include a gift in kind, a loan of goods, a service, or other thing of value, including lunches, entertainment, lodging, and transportation, paid for by or on behalf of the lobbying organization. If an expenditure individually exceeds $35 either in amount (in the case of cash expenditures) or value (in the case of in kind expenditures), it must be disclosed under this subsection.

When itemizing an expenditure reportable under this subsection, the reporting lobbying organization must identify the individuals making and receiving the expenditure, describe the expenditure, and indicate the expenditure's amount or value.

Finally, the subsection does not require lobbying organizations to report any political contributions to a candidate for Federal office (as defined in section 301(e) of the Federal Election Campaign Act of 1971). Legislation other than the lobbying law will continue to govern these contributions.

Subsection 6(b)(4) -- Report of Reception and Dinner Expenditures

This subsection requires disclosure of those expenditures by the reporting organization for any dinner, reception, or similar event that is paid for, in whole or in part, by the reporting organization, provided the dinner, reception, or other similar event is primarily for the benefit of one or more Federal officers or employees and the total cost of the event exceeds $500.

In computing the total cost of the event, expenditures for food, drinks, invitations, entertainment, and hall rental are to be included. Only those total expenditures or costs paid for by the reporting organization, however, are reportable under this subsection. And as indicated in subsection 3(b)(4), subsection 6(b)(4) does not apply to those activities that are in fact regulated by the Federal Election Campaign Act of 1971, as amended.

If an organization invites a Federal officer or employee to a dinner, reception, or other similar event that is not primarily for the benefit or convenience of one or more Federal officers or employees, this subsection would not apply. To the extent that the cost of inviting the Federal officer or employee exceeded $35, however, such cost, if borne by the reporting organization, would be a reportable expenditure that must be disclosed and itemized under subsection 6(b)(3).

Subsection 6(b)(5) -- Report of Expenditures for Retained Persons and Employees

This subsection requires the reporting organization to identify certain of its retained persons and employees and to disclose certain information about the expenditures made pursuant to the employment or retention.

Under this subsection, a lobbying organization meeting the subsection 3(a)(1) threshold during the quarter for which it is reporting must identify all of the retained persons it paid during such quarter to perform some or all of the activities described in subsection 3(a)(1). Subsection 6(b)(5) does not require identification of an organization's retained

persons nor the expenditures made in connection with the retention unless, during the quarter for which the report is filed, the reporting organization met the lobbying threshold established by subsection 3(a)(1). Likewise, a lobbying organization meeting the subsection 3(a)(2) threshold during the quarter for which it is reporting must identify any of its employees who individually engaged in a lobbying communication(s) on each of any seven days in such quarter. Subsection 6(b)(5) does not require identification of any organizational employees nor disclosure of expenditures made in connection with the employment unless, during the quarter to which the report relates, the lobbying threshold established by subsection 3(a)(2) was met.

In reporting expenditures for the employment or retention of persons required to be identified under this subsection, the reporting organization is given a choice of disclosing the total expenditures paid to the identified retained or employed person, or allocating, in a manner acceptable to the Comptroller General, that portion of the total expenditure attritutable to the retained or employed person's subsection 3(a) lobbying activities. Under either option, only expenditures made during the quarter to which the quarterly report relates are reportable. It should be recognized, however, that the words "total expenditure" in subsection 6(b)(5)(B) refer to the entire amount credited or paid to a particular employee or retained person during the quarter. Election of the "total expenditure" reporting option therefore subjects to disclosure the whole of an employee's salary for a quarter, even though the employee involved may have performed duties unrelated to lobbying during the quarter for which the report is filed. Election of the option provided in subsection 6(b)(5)(A) would limit disclosure to that portion of an employee's salary allocable to his lobbying activities, exclusive of solicitations, that are covered by the bill. A similar reporting option is available to organizations that retain others to lobby.

It should be noted that an independent contractor retained to engage in those activities described in subsection 3(a)(1) is required to maintain records necessary to enable the reporting organization to comply with the bill. See subsections 5(a) and (b). In allocating expenditures to an independent contractor for his lobbying activities, itemized disclosure in the report of the amounts paid to a particular member, partner, etc., of the retained contracting firm is not required. In short, unless the reporting organization elects to simply report the total of all expenditures made in connection with the retention during the quarter for which its report is filed, only the

total dollar amount paid to the retained contractor for subsection 3(a) lobbying activities should be considered reportable under this subsection.

Expenditures reportable under this subsection are to be included in the total quarterly lobbying expenditure computation required by subsection 6(b)(2). Retention expenditures not reportable under subsection 6(b)(5) solely because the organization failed to meet the lobbying threshold established by subsection 3(a)(1) must also be included in the subsection 6(b)(2) computation. But the retained person who received the expenditures need not be identified by name, nor do such expenditures need to be itemized. Salary expenditures for employees of the reporting organization that are not reportable under subsection 6(b)(5) need not be included in the subsection 6(b)(2) computation.

Subsection 6(b)(6) -- Report of Issues Directly Lobbied

This subsection calls for a description of certain issues upon which the reporting organization engaged in lobbying communications. If the reporting organization only engaged in solicitations on a particular issue, that issue is not reportable under this subsection but may be reportable instead under subsection 6(b)(7), which establishes the reporting requirements applicable to lobbying solicitation campaigns.

To be reportable under subsection 6(b)(6), the issue lobbied must satisfy three basic criteria. First, the issue must involve a matter described in subsection 2(8). Second, the reporting organization must have engaged in a lobbying communication(s) with respect to the issue. And third, the issue must be one upon which the reporting organization spent a significant amount of its lobbying effort during the quarter for which the report is being filed.

The Committee recognizes that a disclosure provision requiring a listing of every issue lobbied by the reporting organization could be administratively burdensome. Such a requirement might also precipitate the filing of voluminous reports of limited informational value to the public and the Congress. Thus, the language of subsection 6(b)(6) limiting disclosure to those issues "upon which the organization spent a significant amount of its efforts" avoids reporting on issues that were the subject of a de minimis lobbying effort involving, for example, a single phone call. An earlier proposal, not adopted by the Committee, contemplated disclosure of 25 issues. This approach to disclosure was not adopted because

some organizations may lobby extensively on more than 25 issues. Smaller lobbying organizations, on the other hand, might conceivably report every issue lobbied, regardless of the lobbying effort involved, in order to comply with a 25-issue disclosure requirement.

Present subsection 6(b)(6) fairly avoids the inequities inherent in requiring disclosure of a fixed number of issues or in requiring disclosure of issues that were the subject of a de minimis lobbying effort. It should be recognized, however, that the bill's threshold tests were developed to require registration and reporting by organizations whose aggregate lobbying efforts are significant, as measured by the prescribed threshold criteria. Consequently, any lobbying effort on an issue that in itself would cause the reporting organization to meet a test established by subsection 3(a)(1), or a test established by Part A or B of subsection 3(a)(2), would make such lobbied issue reportable. The effort involved in lobbying some reportable issues may be below subsection 3(a) threshold levels. To distinguish between reportable issues and nonreportable issues involving a de minimis lobbying effort, the Committee intends that the Comptroller General use the authority provided by subsection 8(a)(7) to prescribe rules, regulations, and forms, if it proves necessary to establish objective criteria by which organizations can readily comply with subsection 6(b)(6).

In describing an issue reportable under this subsection, the reporting lobbying organization must clearly indicate the subject matter of the particular bill or other subsection 2(8) matter to which it directed its lobbying activities. But it should be recognized that proposed legislation is frequently so comprehensive that a mere reference to the subject matter of an entire bill will not be sufficiently informative to comply with this subsection's reporting requirement. In such a situation, the reporting organization should, in addition to providing the relevant bill number, indicate the subject matter of the particular portions of the bill to which its lobbying activities were directed. In short, the reporting organization must provide enough information about the lobbied issue for its subject matter to be clearly described in the quarterly report. Finally, lobbying organizations must disclose, with respect to each reportable issue, the general position of the organization on that issue.

Subsection 6(b)(7) -- Reporting of Solicitations

The solicitation 1/ reporting requirements of this subsection apply to any lobbying organization, regardless of which subsection 3(a) threshold qualified it as a lobbyist. The Committee emphasizes, however, that an organization's obligation to file a report for a quarter is conditioned on the organization's having met a subsection 3(a) direct lobbying threshold during such quarter. If this condition is not met, there is no requirement that a quarterly report be filed. Only when a report must be filed do subsection 6(b)(7)'s solicitation disclosure requirements come into play.

This subsection rests on the principle that a solicitation should reach minimum numbers of persons or organizations before it must be described in the report. Consequently, a solicitation need not be disclosed unless the organization reporting made a solicitation(s) on the same issue or issues and the solicitation(s) was intended to reach, or could reasonably be expected to reach, either directly or through a retained person, 500 or more people, 25 or more of the lobbyist's officers or directors, 100 or more of its employees, or 12 or more affiliated organizations. The solicitation may be by telephone, newsletter, advertisements, personal contact, etc., or by a combination of each. The solicitation must also be paid for by the reporting organization or be made at the direction of such organization by an affiliate thereof not required to register under the bill. The purpose of the affiliate provision in this subsection is to close the potential loophole of a registered organization using an affiliate as a front to make all, or a part, of its solicitations in order to escape having to report those solicitations. It is implicit in this provision that the registered organization have that degree of control to effectively direct its affiliates to make a solicitation, or that there is such a coordination of efforts that the registered organization pays the affiliate for making solicitations.

In determining whether a solicitation meets the minimum criteria for disclosure, the entire solicitation effort on a particular issue must be considered. For example, an organization might mail 400 letters urging the recipients to write Congress on a particular issue and then, a week later, solicit

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1/ The term "solicitation" is defined in subsection 2(11).

150 additional people by telephone on the same issue. Since the total campaign reached 500 or more persons, the solicitation effort would be subject to subsection 6(b)(7)'s disclosure requirements. To be reportable under this subsection, the minimum number of solicitations must all refer to the same issue or issues. If only 300 persons were solicited on an environmental issue and only 200 persons on a tariff issue, the solicitations would not be reportable, provided the persons solicited were not among the reporting organization's officers or directors, its employees or affiliates. However, if the first solicitation referred to the environmental issue and the second to the same environmental issue, plus a tariff issue, subsection 6(b)(7) would apply to the organization's solicitation campaign on the environmental issue.

Subsection 6(b)(7) requires lobbying organizations to provide the following information about any reportable solicitation effort:

Paragraph (A) requires a description of the procedures used in making the solicitation, such as form letters, telephone calls, TV or radio advertisements, and the like. A description of each issue with respect to which the solicitation was concerned must be provided as well. Instead of describing the issue, the reporting lobbying organization may elect to simply attach to its report a representative sample of the solicitation, such as a copy of the letter it used in a mass mailing campaign.

Paragraph (B) requires the reporting organization to identify any person(s) it retained to make the solicitation.

Paragraph (C) requires the reporting organization to disclose some basic information about the size of the solicitation. If the solicitation is conducted through one of the media described in subsection 6(b)(7)(C), the publication, or the radio or TV station, where the solicitation appeared must be identified. If the solicitation was not conducted through one of the described media, the reporting organization must provide an estimate of the total number of persons solicited by the organization or its retained persons, including, if applicable, a separate estimate of the number of affiliates or other organizations directly solicited. These estimates need not include an indication of how many persons might in turn be solicited by those receiving the solicitation. An exception to this rule of course exists when an organization reports on a solicitation made at its direction by an affiliate not required to register under the bill.

Finally, if a reportable solicitation is conducted through a paid advertisement in a newspaper, magazine, book, periodical, or other publication, or through a paid radio or television advertisement, paragraph (C) requires disclosure of the total amount spent on the advertisement(s), where the total amount spent exceeds $5,000. Only the total cost of such a solicitation must be disclosed in the report. An itemization of solicitation expenses in the report is not required. Further, if a lobbyist engaged in three different lobbying solicitation campaigns, of which each involved a different issue, the expenditure disclosure requirements of this paragraph would apply only to those solicitation campaigns individually costing more than $5,000.

Paragraph (D) requires the reporting organization to indicate whether recipients of a reportable solicitation were in turn asked to solicit others.

Subsection 6(b)(8) -- Report of Direct Business Contacts

This subsection calls for the disclosure of each known direct business contact 1/ between the reporting organization and any Federal officer or employee whom such organization lobbied during the quarterly filing period. This provision is aimed at the disclosure of potential conflict of interest situations. Nothing in this subsection, however, is intended to conflict with or to negate any other conflict of interest provision in any other law.

To be reportable under this subsection, there must be a "direct business contact" between the reporting organization and a Federal officer or employee, together with an effort by the organization to influence such Federal officer or employee on a matter described in subsection 2(8).

In disclosing reportable direct business contacts under this subsection, the reporting organization shall identify the Federal officer or employee involved and describe the relationship between the Federal officer or employee and the organization. The description of the relationship should include a general statement describing the subject matter of the issue the reporting organization sought to influence.

1/ The term "direct business contact" is defined in subection 2(3).

Section 7 -- Powers of the Comptroller General

Section 7, as supplemented by sections 8, 9, and 10, grants the Comptroller General the powers necessary to administer the law effectively.

Subsection 7(a)

This subsection grants the Comptroller General the following powers:

(1) to obtain, by subpoena issued by him if need be, access to such relevant records, reports, and correspondence that are necessary to meet his obligations under the bill. Representatives of the Comptroller General will have the authority under this provision to examine records required to be maintained and to use written interrogatories to obtain answers to specific questions;

(2) to administer oaths and affirmations;

(3) to require the attendance and testimony of witnesses and the production of relevant documentary evidence;

(4) to order the taking of depositions;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(6) to petition the appropriate United States district court for an order to enforce subpoenas issued pursuant to paragraphs (1), (3), and (4) of this subsection.

Subsection 7(b)

This subsection provides that no individual or organization shall be subject to civil liability in any private suit by any other person for disclosing information requested or subpoenaed by the Comptroller General under this bill.

Section 8 -- Duties of the Comptroller General

The Comptroller General will be the chief Government official responsible for administering this bill. Under section 8, he will have the following duties:

(1) to develop a filing, coding, and cross-indexing system to carry out the purposes of the bill. This authorizes the Comptroller General to compile, for example, a cross-index of the issues frequently lobbied by organizations and the organizations that lobbied those issues. As part of his duties under this provision, the Comptroller General is specifically required to develop an index of retained persons and the lobbying organizations that reported retaining such persons. With this information, Congress and the public may readily identify the lobbying organizations a particular retained person represents. The Comptroller General must also develop, in cooperation with the Federal Election Commission, a cross-index of the persons identified in registration statements and reports filed under this bill and the persons identified in reports filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended. Finally, the Committee anticipates the quarterly preparation of an index listing all registered lobbyists.

Indexes maintained under subsection 8(a)(1) should be available for public inspection and updated periodically. Charges for copies of the indexes or parts thereof should be limited to a reasonable standard charge for the direct cost of a document search and duplication. The Comptroller General has the discretion to furnish documents without charge, or at a reduced charge, if he determines it would be in the public interest to do so;

(2) to make copies of registration statements and reports available for public inspection and copying. Registration statements and quarterly reports are to be made available for public inspection and copying no later than 5 working days following their receipt. Charges for copies of a registration statement or report should be limited to a reasonable standard charge for the direct cost of a document search and duplication. The Comptroller General has the discretion to furnish documents without charge, or at a reduced charge, if he determines it would be in the public interest to do so.

The Committee emphasizes that no information contained in any registration statement or report is to be sold or utilized by any individual or organization for the purpose of soliciting contributions or business. This prohibition does not of course affect the rights of a free press to report and comment upon the information contained in lobbying organization registration statements and reports. Rather, it prohibits any organization or individual who obtains lobbying information from the files of the General Accounting Office from using it for unrelated

commercial purposes such as for the development of commercial mailing lists, or for soliciting contributions;

(3) to preserve the originals or accurate reproductions of registration statements, quarterly reports, and related documents for at least 5 years following their receipt;

(4) to compile and summarize on a quarterly basis the information contained in registration statements and quarterly reports in a way that is meaningful to the public and the Congress. This summary shall include, to the extent that it is meaningful and practicable to do so, a quarterly cumulative and combined summary of the lobbying activities by different organizations pertaining to particular issues before Congress. The Comptroller General might, for example, describe and compare the lobbying that was done by all the interests on a particular bill. This will ensure that the information collected by the bill is presented to the public and Congress in as usable a form as possible. Since it is the goal of this bill to ensure meaningful public disclosure of lobbying activities, the Comptroller General shall make every effort to implement this provision to the fullest possible extent. On the other hand, information should not be compiled or summarized in an arbitrary fashion that fails to give an accurate or objective picture of lobbying activity. It should be recognized, however, that the bill does not require the preparation of separate and individual summaries for each registration statement and report on file with the Comptroller General. Persons desiring detailed and complete information about a particular lobbying organization's activities may directly inspect and receive copies of the organization's registration statement and quarterly reports as provided in subsection 8(a)(2);

(5) to make the summaries required by subsection 8(a)(4) available for public inspection within 60 days after the close of each quarter. Charges for copies of the quarterly summary should be limited to a reasonable standard charge for the direct cost of publication or copying. As is the case with the furnishing of documents under subsections 8(a)(1) and 8(a)(2), the Comptroller General has the discretion to furnish the summary without charge, or at a reduced charge, if he determines it would be in the public interest to do so;

(6) to conduct investigations with respect to registration statements and quarterly reports actually filed under the bill, failures to file, and alleged violations of other provisions of the bill; and

(7) to issue, in conformity with the applicable provisions of the Administrative Procedure Act, the rules, regulations, and forms necessary to effectively carry out the bill. Because of the importance of the registration and reporting forms the Comptroller General will develop to implement this bill, every opportunity should be given the public to comment on the forms before they are adopted.

Subsection 8(b)

The Comptroller General is currently not subject to coverage under the Administrative Procedure Act. For purposes of the bill, the duties of the Comptroller General described in subsections 8(a)(6) and (7) are to be carried out in conformity with the applicable provisions of the Administrative Procedure Act. Thus, the provisions of 5 U.S.C. 553 will apply to rules and regulations promulgated under the bill. And records maintained by the Comptroller General under the bill are subject to the provisions of 5 U.S.C. 552 (the Freedom of Information Act) and 552a (the Privacy Act of 1974).

Section 9 -- Advisory Opinions

Subsection 9(a)

This subsection provides that the Comptroller General must, upon a written request and development of the relevant facts, render an advisory opinion regarding the applicability of the bill's recordkeeping, registration, or reporting requirements to the requesting organization or individual. A person (i.e., an individual or organization) may not request an advisory opinion on matters and facts not directly applicable to him. Other organizations and individuals that experience sufficiently similar fact situations, however, may rely on advisory opinions rendered by the Comptroller General. Questions concerning the applicability of an opinion to organizations and individuals other than the opinion's requester should be addressed to the Comptroller General. In this way, a lobbying organization can reliably ascertain whether an advisory opinion applies to its factual situation. And the Comptroller General, assuming the fact situations are sufficiently similar, may confirm the opinion's applicability without rendering another advisory opinion addressing substantially the same factual and legal situation.

Subsection 9(b)

This subsection provides that any individual or organization to whom an advisory opinion rendered under subsection

9(a) applies, and who acts in good faith and in accordance with the provisions and findings of such an opinion, shall be presumed to be in compliance with those provisions of the Lobbying Disclosure Act to which the opinion relates. During the pendency of an advisory opinion request, the opinion's requester should not be deemed in compliance if it can be established that he knowingly violated any of those provisions. In such a case, it would only be reasonable to conclude that the person who requested the advisory opinion merely sought to avoid the consequences of his actions.

The Committee recognizes that, because of differing fact situations, there may be doubt whether an advisory opinion initially rendered at the request of one organization or individual applies to the particular fact situation of another organization or individual. Since this determination will in turn affect the applicability of the subsection 9(b) presumption, it is important that uncertainties concerning an advisory opinion's applicability be resolved at the earliest possible stage under the procedures discussed under subsection 9(a).

An advisory opinion may be modified or revoked, but the person who requested the opinion, as well as those organizations and individuals formally notified of the opinion's applicability to their fact situations, may continue to rely on the original opinion until notified in writing of its modification or revocation, and until notice of such modification or revocation has been published in the Federal Register. Any other person to whom an advisory opinion applies under subsection 9(a), may rely upon such opinion until its modification or revocation is published in the Federal Register.

Subsection 9(c)

Under subsection 9(c), the Comptroller General must publish the request for the advisory opinion and the opinion itself, including modifications or revocations of such opinions, in the Federal Register. In making this information public, the Comptroller General may publish a summary of the facts and conclusions for the sake of clarity or brevity.

Subsection 9(d)

Unless the request for an opinion needs to be answered immediately, the Comptroller General must also provide any interested person with an opportunity to file written comments with respect to the request within such reasonable period of time as he may provide. The Committee anticipates that it

will be infrequent when the Comptroller General renders an opinion without first providing other persons an opportunity to comment.

Subsection 9(e)

Subsection 9(e) provides that any person to whom an advisory opinion rendered under subsection 9(a) applies may file a declaratory judgment action in the United States district court for the district where the person resides or maintains his principal place of business, provided the person challenging the advisory opinion is aggrieved by such opinion. Once again, it is especially important that uncertainties concerning an advisory opinion's applicability to persons other than the opinion's requestor be resolved at the earliest possible stage under the procedures earlier discussed. This is so because subsection 9(e) only covers those persons to whom an adverse advisory opinion rendered under subsection 9(a) applies.

Section 10 -- Enforcement

Subsection 10(a)

When the Comptroller General has reason to believe that any individual or organization has violated any provision of the Lobbying Disclosure Act, or any rule or regulation promulgated thereunder, this subsection, together with subsection 8(a)(6), places an important affirmative responsibility on the Comptroller General to investigate such violations or such apparent violations on his own initiative so as to ensure compliance with the Act.

Any investigation must be conducted expeditiously and in compliance with the applicable provisions of the Administrative Procedure Act. It is anticipated that the Comptroller General, in keeping with this intent of the Committee, will refrain from unnecessary publicity on any investigation he conducts in order to prevent undue harassment of those under investigation and to protect their privacy and other rights.

Subsection 10(b)

If the Comptroller General, following an investigation under subsection 10(a), determines that there is reason to believe that any individual or organization has engaged in acts or practices that constitute a civil violation of the bill, subsection 10(b) requires him to attempt to correct

the matter through informal methods of conference and conciliation. Every effort should be made to resolve civil compliance problems in this way. If this effort fails, the matter should be referred to the Attorney General.

Subsection 10(c)

Under this subsection, the Attorney General has the authority to initiate a civil action with respect to the Comptroller General's referrals made under subsection 10(b)(2). Relief in a civil action may include a permanent or temporary injunction, a restraining order, the imposition of civil penalties under subsections 13(a) and (d), or any other appropriate order. In accordance with normal practice, civil actions must be filed where the person violating the law's provisions is found, resides, or transacts business. The Attorney General is required to make a report to the Comptroller General as to the action taken on the apparent civil violation.

Subsection 10(d)

When the Comptroller General determines, after an investigation under subsection 10(a), that there is reason to believe there has been a criminal violation of the bill, he is required by this subsection to refer the matter to the Attorney General. The Attorney General is to act upon the referral as expeditiously as possible, and is required to make a report to the Comptroller General describing the action taken on the apparent criminal violation.

Subsection 10(e)

Whenever the Comptroller General refers a civil or criminal matter to the Attorney General, the Attorney General must act upon the referral in as expeditious a manner as possible. Under subsections 10(c), (d), and (e), the Attorney General must report to the Comptroller General on the status of the referral within 60 days. Similar reports must be issued at the close of every 90-day period thereafter, until there is a final disposition of the case. This will allow GAO to monitor the progress of cases referred by it to the Justice Department and, from time to time, prepare and publish reports on the status of referrals.

The inadequacies of the present lobbying law have in part been due to its failure to provide a means for effective enforcement. Section 10 is intended to eliminate this problem. Under it, the Comptroller General and the Department of Justice are clearly required to ensure compliance with the new law.

Subsection 10(f)

This subsection provides that the United States district courts shall have jurisdiction of actions brought under the Act.

Section 11 -- Reports by the Comptroller General

Under section 11, the Comptroller General must submit an annual report to the President and to each House of Congress. Each report must contain a detailed statement about the activities of the Comptroller General in carrying out his duties under this bill, together with any recommendations for such legislative or other action that the Comptroller General considers appropriate.

Section 12 -- Congressional Disapproval of Regulations

This section provides that no rule or regulation promulgated by the Comptroller General to carry out sections 4, 5, or 6 of the bill shall become effective until notice thereof has been transmitted to the Congress. Either House of the Congress will have 90 days of continuous session in which to consider such rule or regulation, and a majority vote by either House within that 90 days adopting a resolution disapproving such rule or regulation shall prevent it from becoming effective. Upon the failure of either House to act within the 90-day period, the Comptroller General may place the proposed rule or regulation into effect.

The Committee intends that, for the purposes of reviewing regulations proposed by the Comptroller General, either House may disapprove any provision or series of interrelated provisions that state a single separable rule of law. This does not give Congress the authority, however, to rewrite proposed regulations or to revise proposed regulations by disapproving a particular word, phrase, or sentence.

The congressional review period required by this section should not begin until after the completion of the applicable statutory rulemaking procedures. In this way, the Comptroller General will ordinarily have an opportunity to consider written comments from the public before formally transmitting proposed rules and regulations to the Congress.

Section 13 -- Sanctions

Subsection 13(a)

This subsection provides that any individual or organization who knowingly fails to comply with the registration,

reporting, and recordkeeping requirements of the Act or the regulations pertaining thereto, shall be subject to a civil penalty of not more than $10,000 for each violation.

Subsection 13(b)

Subsection 13(b) provides for criminal penalties in instances where there is a willful and knowing violation of sections 4, 5, or 6 of the bill or the regulations pertaining thereto. Under this subsection, criminal penalties apply to any organization or individual--

> (1) who knowingly and willfully fails to file the required registration documents, keep the required records, file the required reports, or furnish the required information; or,
>
> (2) who, in connection with any such registration, record, or report, or with the furnishing of required information, knowingly or willfully falsifies, conceals, or covers up a material fact or makes false statements or files false writings or documents knowing them to be false. This covers the knowing and willful omission of material facts required to be disclosed as well as the knowing and willful omission of a material fact necessary to make a statement not misleading.

Criminal violations under this subsection may subject the violator to a fine of not more than $10,000, imprisonment of not more than 2 years, or both, for each violation.

Subsection 13(c)

This subsection provides that any organization or individual who knowingly and willfully fails to provide or falsifies all or part of any records required to be furnished under subsection 5(b) to an employing or retaining organization shall be subject to a fine of not more than $10,000, imprisonment for not more than 2 years, or both.

Subsection 13(d)

This subsection provides that any individual or organization selling or utilizing information contained in any registration statement or report in violation of subsection 8(a)(2) shall be subject to a civil penalty of not more than $10,000.

The Committee emphasizes that the bill's criminal sanctions should be imposed only in the most extreme circumstances. As used in section 10, the word "knowingly" imposes the common mens rea requirement that the person be aware of the nature of his conduct. But the term "willfully" imposes an additional standard whereby a person must either have known his conduct was unlawful, or believed that there was a likelihood that his conduct was unlawful. For example, if an individual deliberately alters a document in his files so as to make a materially false or misleading statement before providing it to the Comptroller General, the individual may be subject to criminal penalties under subsections 13(b) and (c).

Section 14 -- Repeal of Federal Regulation of Lobbying Act

This section repeals the Federal Regulation of Lobbying Act of 1946 (2 U.S.C. 261 et seq.) and that part of the table of contents of the Legislative Reorganization Act of 1946 that pertains to title III thereof.

Section 15 -- Separability

Section 15 contains the standard separability provision. If any particular provision, or its application to any person or circumstance, is held invalid, the validity of the remainder of the bill shall not thereby be affected.

Section 16 -- Authorization of Appropriations

Section 16 authorizes specific appropriations to carry out the bill's provisions.

Section 17 -- Effective Dates

This section establishes the dates on which the bill shall become effective.

Subsection 17(a)

Except as provided in subsection 17(b), this subsection provides that all provisions of the Act shall take effect on October 1, 1978.

Subsection 17(b)

This subsection provides that sections 4 (registration), 5 (recordkeeping), 6 (quarterly reports), 10 (enforcement), 13 (sanctions), and 14 (general repealer) shall take effect on the first day of the first calendar quarter beginning after the date on which the first rules and regulations promulgated to carry out the provisions of sections 4, 5, and 6 take effect.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underscored, existing law in which no change is proposed is shown in roman):

AN ACT

To provide for increased efficiency in the legislative branch of the Government.

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

SHORT TITLE

That (a) this Act, divided into titles and sections according to the following table of contents, may be cited as the "Legislative Reorganization Act of 1946":

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* * * * *

[Title III--Regulation of Lobbying Act]

[Sec. 301. Short title.]

[Sec. 302. Definitions.]

[Sec. 303. Detailed accounts of contributions.]

[Sec. 304. Receipts for contributions.]

[Sec. 305. Statements to be filed with Clerk of House.]

[Sec. 306. Statement preserved for two years.]

[Sec. 307. Persons to whom applicable.]

[Sec. 308. Registration with Secretary of the Senate and Clerk of the House.]

[Sec. 309. Reports and statements to be made under oath.]

[Sec. 310. Penalties.]

[Sec. 311. Exemption.]

* * * * *

[TITLE III--REGULATION OF LOBBYING ACT]

[SHORT TITLE]

[Sec. 301. This title may be cited as the "Federal Regulation of Lobbying Act".]

[DEFINITIONS]

[Sec. 302. When used in this title--]

[(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.]

[(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.]

[(c) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.]

[(d) The term "Clerk" means the Clerk of the House of Representatives of the United States.]

[(e) The term "legislation" means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House.]

[DETAILED ACCOUNTS OF CONTRIBUTIONS]

[Sec. 303. (a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of--]

[(1) all contributions of any amount or of any value whatsoever;]

[(2) the name and address of every person making any such contribution of $500 or more and the date thereof;]

[(3) all expenditures made by or on behalf of such organization or fund; and]

[(4) the name and address of every person to whom any such expenditure is made and the date thereof.]

[(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding $10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.]

[RECEIPTS FOR CONTRIBUTIONS]

[Sec. 304. Every individual who receives a contribution of $500 or more for any of the purposes hereinafter designated shall within five days after receipt thereof rendered to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.]

[STATEMENTS TO BE FILED WITH CLERK OF HOUSE]

[Sec. 305. (a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 307 shall file with the Clerk between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing--]

[(1) the name and address of each person who has made a contribution of $500 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of $500 or more to such person since the effective date of this title;]

[(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1);]

[(3) the total sum of all contributions made to or for such person during the calendar year;]

[(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;]

[(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4);]

[(6) the total sum of expenditures made by or on behalf of such person during the calendar year.]

[(b) The statements required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.]

[STATEMENT PRESERVED FOR TWO YEARS]

[Sec. 306. A statement required by this title to be filed with the Clerk--]

[(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk of its nonreceipt;]

[(b) shall be preserved by the Clerk for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.]

[PERSONS TO WHOM APPLICABLE]

[Sec. 307. The provisions of this title shall apply to any person (except a political committee as defined in the Federal Corrupt Practices Act, and duly organized State or local committees of a political party), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:]

[(a) The passage or defeat of any legislation by the Congress of the United States.]

[(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States.]

[REGISTRATION WITH SECRETARY OF THE SENATE AND CLERK OF THE HOUSE]

[Sec. 308. (a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States shall, before doing anything in furtherance of such object, register with the Clerk of the House of Representatives and the Secretary of the Senate and shall give to those officers in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Clerk and Secretary a detailed report under oath of all money received and expended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the Congress of the United States in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Congress of the United States in support of or in opposition to such legislation.]

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

[REPORTS AND STATEMENTS TO BE MADE UNDER OATH]

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

[PENALTIES]

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

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

[EXEMPTION]

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