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STATEMENT OF
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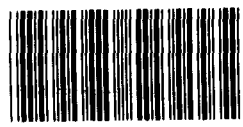
TO THE COMPTROLLER GENERAL OF THE UNITED STATES

BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
OF THE
UNITED STATES SENATE



ON
DISCLOSURE OF LOBBYING ACTIVITIES

Mr. Chairman and Members of the Committee:

We have been asked to testify today on the current lobbying disclosure law, the 1946 Federal Regulation of the Lobbying Act. Despite the implication of its title, the Act is not intended to regulate lobbying or restrict the legislative activities of particular individuals or organizations. Rather, through recordkeeping, registration, and reporting requirements, the Act seeks public disclosure of the identity and financial interests of persons engaged in lobbying.

The Act has resulted, however, in disclosure of only a limited range of lobbying activities. The principal reasons for this limited scope are, first, vagueness of the Act's "principal purpose" requirement and, second, the narrow definition of lobbying adopted by the Supreme Court in United States v. Harriss, limiting the term "lobbying" to direct

communications with members of Congress. Much of the criticism of the Act since its enactment has focused on these two issues that narrow the range of individuals and organizations which must comply with the law's disclosure provisions.

The Act imposes three requirements on lobbyists: registration, reporting, and recordkeeping. Responsibility for administering those requirements is vested in the Clerk of the House and the Secretary of the Senate. The Act authorizes the Justice Department to seek criminal penalties against those who violate the Act.

Given the rights of free speech and the freedom to petition the Congress guaranteed by our Constitution, it is clear to me that the regulation of lobbying must come through disclosure of lobbying activity rather than through any attempt to impose constraints. It is important that the public at large have the opportunity to know the influences being brought to bear on their legislative representatives.

It is equally clear to me that there must be strong oversight of lobbying disclosure requirements if the essential purpose of disclosure is to be achieved. We cannot reasonably expect those who are required to publicly report on their activities to achieve full compliance on a self-policing basis.

As noted in our 1975 report on difficulties in administering and enforcing the Act, the Act is significantly weakened by the limited scope of authority vested in the Clerk of the House and the Secretary of the Senate. The Clerk and the Secretary act only as repositories of information with no authority to ensure compliance with requirements. They lack authority to provide meaningful assistance and guidance to lobbyists, to issue implementing regulations, to assure that information is reported in a timely, accurate, or complete manner, or to handle compliance problems for which criminal prosecution is not appropriate.

Since enactment of the current law, many bills have been considered which would expand its coverage or change its administration and enforcement scheme. The Act clearly would be more effective if its oversight mechanisms were strengthened as provided in virtually all of the bills introduced. Authority to promulgate regulations, to investigate and informally resolve apparent violations, and to examine lobbyists' records are essential to meaningful oversight. In addition, those responsible for administering the Act should be given civil enforcement authority, including authority to litigate.

Vesting the administering agency with all oversight authority except civil enforcement would tend to undermine

the administering agency's authority to informally resolve violations and could lead to disputes between the administering and enforcing agencies over questions of statutory interpretation, disposition of particular cases, and other policy matters. However, the administering agency should not be given criminal enforcement authority. As a general principle, enforcement of Federal criminal laws through formal criminal proceedings is a function of the Attorney General. We see no reason for departing from that principle in the area of lobbying disclosure.

With regard to whether responsibility for the administration and civil enforcement of the Act should be transferred from the Clerk and the Secretary to another agency, recent bills have provided for those responsibilities to be assumed by GAO. We would, of course, accede to Congress' will if it decided to designate GAO as the agency responsible for administration and civil enforcement. However, we do not seek that role. In our view, overseeing lobbying disclosure is considerably removed from GAO's primary function of reporting to the Congress on matters related to the administration of Government activities.

Finally, some bills to amend the current Act have included indirect, or "grassroots" lobbying activities within the Act's reporting requirements. Given the growth in indirect lobbying and the significant role it plays in contemporary

lobbying activities, its inclusion would considerably expand the Act's coverage. Yet disclosure of lobbying on a grassroots basis would seem as important as disclosure of the more direct forms of lobbying.

Mr. Chairman, this concludes my statement. I will be glad to respond to any questions you or other members of the committee may have.

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