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001. fax	Re: Meeting participants (partial) (1 page)	03/04/1993	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Verveer
OA/Box Number: 20037

FOLDER TITLE:

Independent Sector

2013-0534-S
ry1580

RESTRICTION CODES

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

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

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

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

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

(2)(A) Notwithstanding paragraph (1), any person (or organization subject to subsection (c)(2)) whose total income in connection with lobbying activities on behalf of a particular client does not exceed $10,000 in a semi-annual period is not required to register for such client. Persons who are employed by or principals of an organization subject to subsection (c)(2) shall be required to register if the aggregate income of persons employed by or principals of such organization received on behalf of a client exceeds $10,000 in such semi-annual period.

(B) Notwithstanding paragraph (1), any person (or organization subject to subsection (c)(2)) whose total expenses in connection with lobbying activities on behalf of a particular client do not exceed $10,000 in a semi-annual period is not required to register for such client unless in such semi-annual period such person or organization earned or received income in respect of lobbying activities on behalf of such client in excess of $10,000. Persons who are employed by or principals of an organization subject to subsection (c)(2) shall be required to register if the aggregate expenses of persons employed by or principals of such organization made on behalf of such client exceeds $10,000 in such semi-annual period.

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WRITER'S DIRECT DIAL NUMBER

202/862-5025

April 14, 1993

By Hand

Ms. Melanne Verveer
Office of the First Lady
Room 100
Old Executive Office Building
Washington, DC 20500

Dear Melanne:

I enclose a memorandum on charities and the Lobbying Disclosure Act which I think you may find useful. On the chance that others there might like to look at it also, I enclose four copies.

It seems to me that, after you and the others involved there have had a chance to read the memorandum, it might be well for me -- with whomever else you think useful -- to come over and visit with you about this.

The matter really is extraordinarily important for the charitable community.

With every warm wish.

Sincerely,

Tom

Thomas A. Troyer

TAT:rlm
Enclosures

Vernon

INDEPENDENT SECTOR
1820 L Street, N.W.
Washington, D.C. 20036
(202) 223 8100

Bob Smucker
Senior Vice President and
Director, Government Relations

Melanne

Here is the language we promised you when we met last Thursday

Bob

Proposed Amendment to Exclude Charities From the Lobbying Disclosure Act

Proposed Amendment

Amend subparagraph (9)(B) of section 3 by deleting "and" at the end of clause (xiv), by replacing the period at the end of clause (xv) with a semicolon, and adding "and" after the semicolon; and by adding the following new clause:

> "(xvi) made by an organization organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in section 501(h) of the Internal Revenue Code), and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office.

Explanation

The proposed amendment would exclude from the definition of "lobbying contacts" communications made by charitable organizations exempt from tax under section 501(c)(3) of the Internal Revenue Code. By virtue of this exclusion, such organizations would not be subject to registration or reporting under the Lobbying Disclosure Act.

Rationale

The legislative history of the Lobbying Disclosure Act suggests that the fundamental aim of the legislation is to compel public disclosure of contacts with federal official by individuals or organizations which seek to derive private financial benefit from those contacts. The scandals at HUD from 1981 to 1988 and the series of abuses surrounding the Wedtech Corporation, cited in the legislative history as archetypal illustrations of the need for the Act, are clear examples of contacts with federal officials seeking just such private financial benefit. Contacts of this sort almost invariably depend for their success on the ability of the individual or organization making the contact to make political contributions to the official being contacted or the Administration of which he or she is a part.

Charities, by their very nature and by the special federal tax laws governing them, are barred from producing private benefit -- financial or otherwise -- and from participation in the political campaign process. They must be established for religious, educational, or other charitable purposes; their assets may not inure to the benefit of any private party; and they are absolutely prohibited from operating a PAC, endorsing a political candidate, or otherwise participating in partisan politics.

A charity which violates any of these rules loses its tax exemption and qualification to receive deductible contributions. A charity which violates the political prohibition also becomes subject to special penalty excise taxes, and the individuals who manage the charity themselves become personally liable for additional penalty excise taxes under certain circumstances. To afford an additional safeguard against political campaign activity, the Internal Revenue Code grants the IRS the special, highly unusual power to seek prompt court injunctions against the proscribed conduct -- without awaiting the end of the offending organization's tax year, as the IRS must do in virtually every other civil or criminal tax proceeding.

Charities, then, are uniquely and stringently prohibited from the kinds of abuse which underlie the need for the Lobbying Disclosure Act.

Moreover, as Congress has consistently recognized since the mid-1970's, charities also play a highly positive role in the legislative process, both by encouraging broader citizen participation and by representing public interests on a broad range of issues. Indeed, Congress' central purpose in enacting the 1976 amendments adding section 501(h) and 4911 to the Internal Revenue Code was to encourage greater participation by charities in the legislative process. Congress forcefully reiterated this objective in 1986 in calling on the Treasury Department to withdraw unduly restrictive regulations interpreting the 1976 legislation.

By imposing burdensome reporting requirements on charities, the Lobbying Disclosure Act threatens to deter many charities, particularly smaller charities, from the very involvement in the legislative process that Congress has sought to encourage.

Proposed Amendment to Exempt Small Organizations From the Lobbying Disclosure Act

Proposed amendment

Amend subparagraph (9)(B) of section 3 by deleting "and" at the end of clause (xiv), by replacing the period at the end of clause (xv) with a semicolon, and adding "and" after the semicolon; and by adding the following new clause:

"(xvi) made by any organization with 10 or fewer full-time employees."

Explanation

The proposed amendment would exclude from the definition of "lobbying contacts" communications made by organizations with 10 or fewer full-time employees. By virtue of this exclusion, such organizations would not be subject to registration or reporting under the Lobbying Disclosure Act.

Rationale

The Lobbying Disclosure Act would be particularly burdensome for small charities and other small organizations. Many small charities, with large missions and limited resources, have very limited administrative support and record-keeping capacity. To establish a record-keeping system to track the legislative contacts required to be reported under the Act would force such organizations to divert critical resources from far more socially-product programmatic activities.

13 pages

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

April 2, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-261

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3086 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
HUD - Edward J. Murphy, Jr. - (202)708-1793 - 215
JUSTICE - Faith Burton - (202)514-2141 - 217
STATE - Matt Winslow - (202)647-4463 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
OGE - Jane Ley - (202)523-5377 - 261

FROM: JAMES J. JUKES (for) JL
Assistant Director for Legislative Reference

OMB CONTACT: GERRI RATLIFF (395-3923)
Secretary's line (for simple responses): 395-3454

SUBJECT: OMB Request for Views RE: HR 823, Lobbying Disclosure Act of 1993

DEADLINE: 4:00 TUESDAY April 6, 1993 9104 NEOB.

COMMENTS: Please submit your views by the deadline in the form requested in the attached memo from Donsia Strong of the White House Domestic Policy Council staff. We request that the views be in bullet (rather than paragraph) form, and as brief as possible. The views will be handed out and discussed at an interagency meeting in room 9104 of the New Executive Office Building at 10:00 on Wednesday, April 7th. Each agency is asked to limit attendance to two people, including a policy-level official. For clearance into the building, please call Darcel Gayle (395-3454) with the names and birth dates of your agency's representatives by 4:00 TUESDAY. We intend to distribute agency responses to this request for views at the meeting. Attached for your information are: (1) a letter from th President in which he supports the bill and states the Administration's willingness to work with the subcommittee to strengthen it; and (2) two letters from the Chairman of the FEC on the bill.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Donsia Strong
Bruce Reed
Jack Quinn
Cheryl Mills
Melanne Verveer
Michael Waldman
Chris Edley
Bob Damus
Bernie Martin
Richard Loeb
Adrien Silas
Cora Beebe
Hilda Schreiber
Lorraine Miller

LRM #I-261

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include the** LRM number shown above, and the **subject** shown below.

TO: GERRI RATLIFF
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3883
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: OMB Request for Views RE: HR 823, Lobbying Disclosure Act of 1993

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____________

_____ Other: ______________________

_____ FAX RETURN of _____ pages, attached to this response sheet

THE WHITE HOUSE

WASHINGTON

April 1, 1993

MEMORANDUM FOR CIRCULATION

FROM: DONSIA STRONG
Domestic Policy Council

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

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

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

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

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

Thank you for your cooperation.

DEPARTMENT :

AGENCY:

RELEVANT CURRENT STATUTE (if any)

EXECUTIVE BRANCH
•Propose strengthening amendments
Discuss proposed strengthening amendments

•Highlight perceived problems or potential abuses

INDIVIDUAL DEPARTMENT OR AGENCY
•Provide relevant statistical or anecdotal information regarding current lobbying disclosure statutes

THE WHITE HOUSE

WASHINGTON

March 31, 1993

Dear Mr. Chairman:

We in public service have an opportunity to reconnect the bonds of trust with the American people. As I have made clear from the beginning of my Administration, I believe that political reform must be a top priority. As part of that effort, I strongly support the Lobbying Disclosure Act of 1993.

Too often in recent years, our government has not served the interests of average citizens. One major reason for this is the disproportionate impact of lobbyists on the governmental process. Today, by some estimates, as many as 80,000 people work in Washington directly or indirectly as lobbyists, representing organized interests before Congress and the executive branch. To be sure, lobbying is a constitutionally protected right, and we do not propose to limit that right. But we cannot allow the clamor of organized interests -- who too often seek to preserve the status quo -- to drown out the voice of the broad middle class.

Despite the enormous impact of lobbying, and the huge sums spent for these purposes, current laws do not begin to address the public's questions about what forces influence policy. Only a small fraction of individuals who should register under current law even do so. Disclosure forms are weak, loophole-ridden and provide meaningless information. Data regarding lobbying on behalf of foreign interests is particularly inadequate. And the definitions of lobbying in current law have not kept up with the realities of the labyrinthine regulatory state.

To restore public confidence, then, we must ensure at a bare minimum that lobbying is fully disclosed, so the full range of activities of lobbyists is open to public scrutiny. Toward that end, I strongly endorse the passage of legislation that would strengthen and streamline lobbying disclosure, and that effectively provides the public, the media and competing interests access to information about the extent of lobbying.

This legislation would create a comprehensive, uniform statute covering all professional lobbyists without regard to which branch of the federal government they lobby. The bill provides, for the first time, a broad definition of who is a lobbyist. It requires that lobbyists identify their clients, specify on which issues they lobby, and disclose how much they spent or were paid. At the same time, it streamlines existing law to make the rules more comprehensible for individuals who must comply.

In addition, I believe the subcommittee may want to take steps to strengthen and clarify the bill. My Administration looks forward to working with the subcommittee on such improvements.

We cannot settle for business as usual in Washington; this legislation must be only the beginning of large scale political reform. My Administration has already implemented the toughest-ever restrictions on post-employment lobbying by senior officials, banning them from lobbying their agency for five years and from ever serving as a registered agent for a foreign government. We have proposed the elimination of the deductibility of lobbying expenses. This deduction inappropriately subsidizes organized interests who seek to influence the legislative process. Finally, we will shortly propose campaign finance reform legislation that will further reduce the role of organized interests in the political system.

I look forward to working with the Congress to secure speedy enactment of this important legislation. I appreciate the hard work of the subcommittee on this issue.

With best wishes,

Sincerely,

Bill Clinton

The Honorable John Bryant
Chairman
Subcommittee on Administrative
Law and Governmental Relations
House of Representatives
Washington, D.C. 20515

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1993

OFFICE OF THE CHAIRMAN

The Honorable John Bryant, Chairman
House Judiciary Subcommittee on
Administrative Law and Governmental Relations
2138 Rayburn House Office Building
Washington, D. C. 20515-6216

Dear Chairman Bryant:

In response to your letter dated March 15, 1993, contained herein is the preliminary comment of the Federal Election Commission on H.R. 823, the "Lobbying Disclosure Act of 1993."

We have asked our legal staff to review the bill in detail. There is, however, a fundamental issue that can be addressed now. Specifically, Congress may wish to consider placing the responsibility for administering this Act with the Federal Election Commission, rather than the Department of Justice. There are several benefits to be gained by this approach.

First, the Federal Election Commission already has in place the fundamental administrative apparatus to handle the bill's provisions in regard to reporting, public disclosure, advisory opinions, rulemaking and enforcement. All these functional activities are requirements for regulating campaign finance, and we already have developed the type of staff expertise, procedures, physical plant, and information technology necessary to meet these core elements of the bill. While incremental resources would be needed to absorb the work associated with a new and large regulated community, it would probably be less expensive and faster than developing this capability largely from scratch.

Second, many of the providers and consumers of the information that is to be reported are the same providers and consumers of campaign finance information. In many associations and corporations, the lobbying function and the political action committee both report to the same official, often the Vice President for Governmental Affairs. Similarly, many of the reporters, academics and public interest groups that wish to track lobbying are the same persons who track campaign finance matters. This parallel is recognized in the bill in section 6, which requires the proposed Department of Justice Office of Lobbying Registration and Public Disclosure to set up computer systems "compatible with computer systems developed and maintained by the Federal Election Commission... [so] that information filed in the two systems can be readily cross-referenced...." It strikes us as easier for all concerned if all interested parties can deal with one agency with familiar faces and consistent rules and procedures.

We wish to emphasize that the Commission is not anxious to take on this new responsibility if the additional funding and staffing necessary to do the job correctly would not be provided. We are now experiencing extremely heavy workloads and strained resources with our existing mission. That said, we offer this comment in the hope that it will enable your Subcommittee to consider an option that might produce a more economical and efficient result.

If the Subcommittee is receptive to this general approach, please let me know. If you will be requesting us to testify at your hearing on March 31, 1993, or at a later date, we would appreciate as much advance notice as possible.

Sincerely,

Scott E. Thomas
Chairman

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 2, 1993

OFFICE OF THE CHAIRMAN

The Honorable John Bryant, Chairman
House Judiciary Subcommittee on
Administrative Law and Governmental Relations
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Dear Chairman Bryant:

As a follow-up to our March 23, letter to you regarding H.R. 823, the "Lobbying Disclosure Act of 1993", the Federal Election Commission would like to provide the Subcommittee with the following additional comments on H.R. 823.

1. Sec. 5(a). Reports by Registered Lobbyists. The Commission has had extensive experience in receiving semiannual, quarterly, and monthly reports. We urge that the bill provide for quarterly reporting of financial information in order to give the public more timely information. We have found that there is a strong public demand for more frequent reporting. We also believe that the quarterly reporting of financial data spreads out the administrative burden for both filers and the agency more evenly during the year. The quarterly reports tend to be smaller and more quickly computerized.

2. Sec. 5(e). Extension for Filing. The bill provides that filers may be granted an extension of time up to 30 days, upon request, and for good cause shown. Although these reports are not tied to an election, like the FECA requirements, this "grace period" is quite generous. It will be difficult for the agency to handle the review of "good cause" and inform the filer that their request was granted or denied. The Congress should consider limiting extensions to reports due on holidays and weekends. It has been our experience that filers make the necessary effort to deliver their reports in a timely manner when the reporting dates are clear and firm.

3. Sec. 6. Administrative Duties of the Office of Lobbying Registration and Public Disclosure. If responsibility is placed with the Department of Justice, we would suggest a language change with respect to paragraph (b)(5)(B) so that the burden of computer-compatibility would fall on Justice rather than the FEC. We make this suggestion so that when Justice builds its system, they build one which is compatible with ours. Since the FEC system is already in place, it is

simpler to design a new system to conform to the existing system. Otherwise, major design and redesign will be required at both points.

4. Section 6(b)(6). **Administrative Duties.** This paragraph requires that the Office of Lobbying Registration and Public Disclosure make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received. This should be more specific as found in paragraph (11).

Paragraph (11) requires that the Office provide the Clerk and the Secretary with certain information (including copies of registrations and reports) as soon as practicable (but not more than 2 working days) after the material is received or created. This same parenthetical wording should be included in paragraph 6(b)(6).

5. Section 8. **Determinations of Noncompliance.** Subparagraph 8(a)(2)(A) provides that if the Director determines that the person is involved in a case of significant noncompliance, the person has 30 days to request an oral hearing before an independent presiding official. Given the large number of reporting persons, this provision could be very burdensome for any administering agency. We would recommend a simplified admistrative process such as presently employed by the Commission in its enforcement process rather than the formal process of 5 U.S.C. 556.

6. One provision which did not appear in H.R. 823 is a requirement to set up a revolving fund for receipts from the sale of documents and other services or products. The Commission has encountered higher cost over the years as we provide more information and services to the public. Although all the receipts from these sales of publications or documents go back into the general Treasury, these receipts are lost to the agency. Authority for a revolving fund for publications and services would permit the agency to recycle those funds back to cover the costs of producing publications and services which the public has shown a desire to purchase.

7. Another provision not currently in the bill is a section or phrase relating to possible costs for making copies of documents. The Commission has had experience in this area because we have charged a minimal amount for copies. The FECA requires us to make documents available for copying "at the expense of the person requesting such copying...." This has permitted copying documents at a minimal cost (now $.05 per page) and caused people to think about whether they really need everything that is on file. While we suggest a minimal fee for copying documents, we also strongly suggest companion language stating that it be a minimal charge.

8. Should Congress decide to place the responsibility for administering this Act with the FEC, you should also consider how much of the responsibility now required under the Foreign Agents Registration Act, if any, will be conferred on the FEC.

The Commission appreciates the opportunity provided by the Subcommittee to offer comments on this bill. We look forward to appearing before your Subcommittee should you so desire.

Sincerely,

Scott E. Thomas
Chairman

Whatever economic package the Clinton Administration offers Yeltsin at the forthcoming summit meeting, its goal should be tailored to serve economic, not political ends, economists say.

"The magnitude of the money one can put together is peanuts," Rodrik said. "So it has to be used strategically to leverage bigger things."

"Our focus should be on the critical sectors [such as agriculture and energy] and institutions," Hardt said, reflecting the type of aid plan that the Administration appears to be in the process of creating. "The only way to get leverage is targeted assistance that makes enterprises and regions want to cooperate."

Political cooperation between the Russian president and parliament will follow, or at least that is what economists are hoping. ■

WHAT? LOBBYISTS WANT TO BE REGULATED?

BY PETER H. STONE

Beefing up the regulation of lobbying has long been a goal of public-interest groups but anathema to most lobbyists. Now, the tables have been turned.

A pending bill that would mandate more disclosure of lobbying is coming under fire from some public-interest groups and nonprofit organizations, which say that it's too onerous. Meanwhile, the bulk of the lobbying community is backing the bill or offering only token opposition. Even Thomas Hale Boggs Jr., the quintessential Washington influence merchant, has written of the need for tougher disclosure rules in *The New York Times*.

The legislation, introduced in the Senate by Carl Levin, D-Mich., is backed by the Clinton Administration and has been approved by the Governmental Affairs Committee. A House Judiciary subcommittee will hold hearings on March 31 on a virtually identical measure by Rep. John Bryant, D-Texas.

Among other things, the bill would broaden the definition of lobbying to include contacts with the executive branch as well as Congress. It would tighten reporting requirements for lobbyists representing foreign interests. And it would create a new enforcement office in the Justice Department with the power to levy monetary fines.

But a loose-knit coalition of about three dozen nonprofit groups, including Independent Sector, the Alliance for Justice, the National Wildlife Federation and the American Civil Liberties Union, has complained that the proposed legislation would crimp its lobbying ability—hurting smaller nonprofit groups especially—by creating a heavy regulatory burden. The coalition argues that some of the new disclosure requirements would be redundant because nonprofit groups already have to provide much of the same information to the Internal Revenue Service.

"We believe that new layers of complexity will have a chilling effect on smaller groups that seek to influence policy," said Ed Osann, director of the water resources program at the National Wildlife Federation.

Further, most of the nonprofits say that disclosure of executive branch lobbying should cover only efforts to influence decisions on spending, not discussions of policy. The groups also say they would prefer to have enforcement handled by an entity other than the Justice Department, such as the independent Office of Government Ethics. The legislation now would require any group that spends $1,000 or more on lobbying during a six-month period to file a report; several of the nonprofits want that threshold raised to $10,000.

WASHINGTON INC.

Some Members of Congress have been talking to the nonprofits and seem sympathetic. "I want to ensure that the unique status of these groups is considered as we formulate legislation to reform our inadequate lobbying disclosure laws," Rep. Dan Glickman, D-Kan., said. "It is my hope that these groups will not be forced into a situation where their ability to petition government is jeopardized."

The nonprofits contend that although the bill could impede their lobbying efforts, it won't hinder big corporate lobbyists. "The corporate community loves it because it won't be any problem for them," said Robert M. Smucker, a vice president with Independent Sector, an organization that represents nonprofit groups in Washington. "They can buy their way out of it. They can come off looking like good guys."

Indeed, many leading lobbyists have voiced their backing for the proposed reforms. Earlier this month, the 400-member American League of Lobbyists gave the bill its blessings.

To be sure, there are some naysayers. The American Society of Association Executives has allied with a few other trade groups that say the bill's definition of lobbying is overly broad. Specifically, they're upset that executive branch lobbying will now have to be disclosed.

Despite such requirements, some public-interest lobby groups such as Common Cause and Public Citizen Inc. say the bill doesn't go far enough. They have been pushing provisions that would force all lobbyists to publicly itemize all gifts, entertainment and free trips that they give Members and their staffs.

"The bill doesn't disclose anything in terms of the financial benefits that come from lobbyists," said Ann McBride, senior vice president of Common Cause. Such benefits should ultimately be banned, McBride said, but until then, disclosure is the best remedy for curbing abuses. Common Cause has noted that when President Clinton was Arkansas's governor, he successfully backed a lobbying bill with curbs on gifts.

Public Citizen also supports limits on gifts from lobbyists. But the group agrees that the proposed reporting threshold for lobbying expenditures is a bit too restrictive. It says that a report shouldn't be required unless a lobbyist receives or spends more than $5,000 during a six-month period.

For their part, Administration officials say that they want the toughest bill possible but don't want to overload it with requirements that could endanger its passage. Donsia Strong, a senior policy analyst at the White House who formerly was an aide to Bryant, has met with members of the nonprofit coalition about the bill and said that the Administration is sensitive to the concerns they've raised.

INDEPENDENT SECTOR

Give five.

THE INDEPENDENT SECTOR POSITION ON DISCLOSURE

Full disclosure of program activities and finances by charities has been supported by INDEPENDENT SECTOR since its earliest days. The Organizing Committee report which led to the formation of INDEPENDENT SECTOR emphasized the importance of openness, accountability, and accessibility as basic to responsible behavior by charities. INDEPENDENT SECTOR therefore supported provisions in the Tax-Exempt Organizations Lobbying and Political Activities Accountability Act, passed in December 1987, which required charities to provide, for public inspection, certain information contained on the federal tax return and other documents. That information includes detailed disclosure of charities' lobbying expenditures, including both their direct and grass roots lobbying expenditures.

WHY CHARITIES SHOULD NOT BE SUBJECT TO THE LOBBYING DISCLOSURE ACT

Senator Carl Levin (D-MI) and Congressman John Bryant (D-TX) have introduced legislation (S.349-H.R.823) that requires the disclosure of lobbying. While we support lobby disclosure, we have serious reservations about the provisions affecting the nonprofit community. The definitions and requirements applying to nonprofits enacted by Congress and more recently publicly debated through IRS regulations require sufficient disclosure to fully protect the public interest.

The Proposed Lobbying Disclosure Legislation Would Require Charities to Comply With Burdensome Lobbying Disclosure Requirements.

Under the Act, any charitable, educational or religious organization expending $1,000 or more in any six month period on federal lobbying activities, and which has one or more employees engaged in "significant" lobbying activities, would be required to register with the Department of Justice and, thereafter, to file semiannual reports on lobbying activities. Reporting would apply not only to lobbying on federal legislation, but also to lobbying on executive branch actions including regulations, appointments, and the award and administration of contracts. Charities would have to report the specific issues and legislation on which they lobby, total lobbying expenditures, and each congressional committee and executive agency contacted.

A NATIONAL FORUM TO ENCOURAGE GIVING, VOLUNTEERING AND NOT • FOR • PROFIT INITIATIVE
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SUCCESSOR TO THE COALITION OF NATIONAL VOLUNTARY ORGANIZATIONS AND THE NATIONAL COUNCIL ON PHILANTHROPY

The legislation would not only apply to national organizations but to state and local organizations who meet the $1,000 threshold and at least one employee engaged in "significant" lobbying activities.

For the reasons outlined below, this additional reporting is not needed to meet the legitimate public interest in disclosure of charities' lobbying activities, and would deter many charities from highly desirable participation in the public policy process.

Lobbying by Charities Is Already Effectively Regulated Under Sections 501(c)(3) and 501(h) of the Internal Revenue Code and Other Provisions of Federal Law.

Charities (that is, organizations exempt from tax under section 501(c)(3) of the Internal Revenue Code) are already subject to far more stringent limits and reporting obligations with respect to lobbying activities than apply to business lobbying. Charities electing to be subject to the section 501(h) lobbying rules must report all expenditures for both direct and grassroots lobbying on their annual IRS Form 990 return. Charities not subject to section 501(h) must provide even more detailed information on their lobbying activities. All charities must allow public inspection of their Form 990. Moreover, all charities are subject to strict limits on total lobbying expenditures or activities -- limits enforced through penalty taxes and/or loss of tax exemption. Finally, the IRS has far broader audit and enforcement authority than would the Office of Lobby Registration under the proposed Lobby Disclosure Act of 1993.

In addition to these requirements of the Internal Revenue Code, the lobbying activities of charities receiving federal grants or contracts are subject to further limitations, reporting, and audit requirements under cost reimbursement rules of the Office of Management and Budget. Charities participating in the Combined Federal Campaign must also file a certification, concerning their lobbying activities with the Office of Personnel Management.

By Forcing Compliance with a Second Set of Complex Lobbying Regulations, S. 349 - H.R. 823 Would Strongly Discourage Lobbying by Charities.

While the section 501(h) regulations provide a fair and predictable framework for charitable lobbying, the complexity of the section 501(h) regulations -- more than 40 pages long -- continues to be a significant deterrent to many charities, particularly smaller organizations lacking ready access to special legal counsel. To force charities to comply with a second complex and inconsistent set of lobby regulations would seriously undermine section 501(h)'s fundamental goal of encouraging more charities to get involved in the public policy process. Experience demonstrates that many charities will simply avoid lobbying altogether when confronted with a myriad of regulations.

In Terms of the Public Interest, The Problem Is Not Too Much Lobbying By Charities, But Too Little.

Congress has conducted three in-depth examinations of lobbying by charities since 1976 and concluded that existing Internal Revenue Code provisions provide an appropriate regulatory framework not only to avoid abuses but also to encourage legitimate activity by charities. There is no need to reopen this question.

From 1954 to 1976, section 501(c)(3)'s prohibition on "substantial" lobbying by charities had the practical effect of discouraging virtually all charities from participating in the legislative process. Recognizing that charities had much to contribute to the development of sound public policies, Congress enacted section 501(h) in 1976 to encourage more charities to lobby. However, controversy over interpretation of section 501(h) delayed issuance of final regulations until 1990, and the great majority of charities continued to refrain from lobbying pending resolution of these issues. With the issuance of detailed final regulations, section 501(h) is only now beginning to achieve Congress' objective of encouraging more charities to lobby. The Lobby Disclosure Act would once again send the wrong message to nonprofits, chilling their advocacy voice.

There Is No Compelling Justification for Requiring Charities to Report on Executive Branch Lobbying or to Disclose the Issues on Which They Lobby or Their Contacts with Specific Congressional Committees or Agencies.

Congress chose not to require charities to report on lobbying with respect to executive branch decisions. In the 1980s the executive branch tried to broaden the definition, but after public and congressional input decided not to expand the definition. While Wedtech-type scandals may justify requirements for business disclosure of executive branch lobbying, there is no history of comparable abuses by charities to support imposing a comparable burden on charities' constitutionally protected contacts with executive branch officials. Unlike businesses, charities are legally barred from operating for the private benefit or profit of any individual, and this fundamental legal difference itself provides adequate protection against Wedtech-type abuses. Furthermore, under existing requirements nonprofits must report activities pertaining to attempts to influence the award of significant contracts and grants.

Requiring charities to disclose the specific issues on which they lobby or their contacts with specific congressional committees and executive agencies would serve no public interest of sufficient moment to justify imposing such a substantial burden on charities' exercise of their First Amendment rights. The existing tax law disclosure requirements provides the public with sufficient information to evaluate both the scope and purpose of a charity's lobbying efforts.

THE WHITE HOUSE
OFFICE OF THE VICE PRESIDENT

FOR RELEASE: 2 p.m. (EST)
THURSDAY, February 4, 1993

Contact: Marla Romash
202-456-7034
301-585-9408 (H)

LOBBYING REFORM LAW GAINS ADMINISTRATION SUPPORT AT INTRODUCTION
Vice President Gore Joins Sponsors to Urge Congressional Action

WASHINGTON -- New legislation to strengthen and streamline lobbyists' disclosures gained a strong endorsement from President Clinton today (2/4) when Vice President Al Gore joined the bill's key sponsors, Sen. Carl Levin, D-MI; Rep. John Bryant, D-TX; and Sen. Bill Cohen, R-ME; and Rep. George Gekas, R-PA; at its introduction.

"This Congress and this Administration must speak in one voice to the American people and show them -- in word and in action -- that our work is to represent their interests: their families, their children, their jobs, their neighborhoods; and not the special interests. We're dedicating ourselves to changing the way government works, to put people first," the Vice President said.

The legislation mirrors proposals President Clinton and Vice President Gore offered during the campaign, calling for legislation to strengthen and streamline lobbying disclosure.

"The American people want change -- not just from their President but from all their elected officials. We have a responsibility to them -- to the people we represent -- to bring about real change, to restore confidence in our democracy, to make meaningful reforms in the way we do our political business," the Vice President said.

The Lobbying Disclosure Act introduced today (2/4) requires the registration of all professional lobbyists and broadens the definition of lobbying; streamlines lobbying disclosure requirements while increasing the amount of information available about lobbyists' clients; and substitutes fines for current criminal laws.

Vice President Gore said this bill reflects President Clinton's strong commitment to government reform, including campaign finance reform.

"Yesterday, we met with Congressional leaders to talk about moving forward with campaign finance reform. And, we met with workers at the budget office, and President Clinton made clear the marching orders he's giving his cabinet: tighten your belts,

(MORE)

INDEPENDENT SECTOR

Give Five.

Robert M. Smucker
Senior Vice President and Director, Government Relations

February 15, 1993

Melanne Verveer
Deputy Chief of Staff
Office of the First Lady
Old Executive Office Building
Suite 100
Washington, DC 20500

Dear Melanne:

I wanted to be certain you knew the problems our Members have with the Lobby Disclosure Accountability Act introduced by Senator Levin and Congressman Bryant and supported by the White House. It calls for needless additional reporting of lobbying activities which will make it all the more difficult to encourage charities to be aggressive advocates. I am enclosing Senator Levin's statement which includes "a strong endorsement from President Clinton". Our statement is also enclosed. You are so well acquainted with our community that I am certain a word from you to the appropriate people in the White House would help a lot.

I hope all is going well for you!

Sincerely,

Bob

Robert M. Smucker

Encs.

A NATIONAL FORUM TO ENCOURAGE GIVING, VOLUNTEERING AND NOT • FOR • PROFIT INITIATIVE
1828 L. Street, N.W. • Washington, D.C. 20036 • (202) 223-8100
FAX: (202) 416-0580

INDEPENDENT SECTOR Voting Members

December 1, 1992

[illegible]

5,000 - IRS threshold

paperwork

MEMO RE: Concerns of nonprofit community re proposed lobbying disclosure bill

The most fundamental concern of the nonprofit community on the bill relates to the inconsistency between the definition of "lobbying" for IRS purposes and for purposes of the new federal bill. This problem is explained as item 1 in the enclosed materials from Independent Sector. Several other points should be noted:

1) Since the Treasury regulations in 1990, only a relatively few years ago, the nonprofit community has been attempting to learn and implement this complex set of rules on lobbying. Adding another set now, which is contradictory in some respects (e.g. treatment of self-preservation lobbying and executive branch contacts), would be extremely confusing and could well convince many nonprofits to withdraw from the process.

2) The problem is not solved by the simplified "check-off" type reporting forms to be used under the bill. What is reported to the government is only the tip of the iceberg. In light of the possibility of civil liability and potential charges by political opponents or DOJ that a nonprofit has violated the law, many nonprofits will feel the need to keep detailed records of activities to defend against such a claim. In addition, many more nonprofit employees will need to be involved than at present; currently, only a selected few employees may engage in lobbying of Congress, but many more have contact with government officials in a way that could be considered lobbying under the new bill.

3) The proposed solution that nonprofits should simply "check off all the boxes on the form regardless of whether they really apply" is also problematic. Technically, supplying knowingly false information on a federal form could be a legal violation regardless of whether the information is under or overinclusive, and most nonprofits will probably not do so. This proposed solution, moreover, would render the law totally meaningless, since submitting a form with all boxes arbitrarily checked provides no more information than one with no boxes checked, and DOJ would presumably try to stop it through rulemaking, etc.

4) Groups like the ACLU or Free Congress Foundation will presumably continue to lobby even if this problem remains. The groups most affected will be smaller, outside the Beltway, and less "political"-type groups -- precisely the types of groups whose participation the Administration wants to encourage.

5) The other two primary concerns of the nonprofit community are clarifying the "incidental activity exclusion" (item 2 in the enclosed materials) and the use of DOJ as the monitoring agency.

RATIONALE FOR

PROPOSED AMENDMENTS TO S.349

1. Conforming the S.349 definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation" for purposes of the application of S.349 to organizations exempt from tax under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code.

Problem: In 1976, Congress established detailed rules governing the lobbying activities of organizations exempt from tax under section 501(c)(3). These rules, codified in sections 501(h) and 4911 of the Internal Revenue Code, include a detailed statutory definition of "influencing legislation," contained in section 4911(d). In 1990, the Treasury issued 40 pages of regulations interpreting these statutory provisions -- regulations charities must understand in order to comply with the tax law restrictions on lobbying.

S.349 would require charities to understand and comply with a second complex definition of lobbying. While similar in many respects, the two definitions are substantially different in others. For example, while the tax law definition includes all grassroots lobbying with respect to federal legislation, S.349 includes only grassroots lobbying "in direct support of [direct] lobbying contacts." On the other hand, unlike the S.349 definition, the tax law definition does not include efforts to influence executive branch decisions. Finally, while both the tax law definition and S.349 provide lists of exclusions from the definition of lobbying, these lists, while overlapping, are not the same.

Charities have already committed substantial time and resources to establishing record-keeping and reporting systems to track the information required to comply with the tax law rules. Forcing them to understand a second, complex, and conflicting definition would be quite burdensome, and, as a practical matter would be a significant deterrent to lobbying by many charities.

While S.349 makes some effort to reduce the burden of imposing a second definition of lobbying on charities, the root problem remains. For example, while S.349 permits charities to use the tax definition in calculating lobbying expenditures to be reported under the Act, charities would still be required to track, and report, all contacts with executive branch officials.

The supporters of S.349 have failed to demonstrate any compelling public need to justify the substantial burden -- and chilling effect -- inherent in requiring charities to understand and comply with a second definition of lobbying.

Effect of proposed amendment: The proposed amendment eliminates the problem by conforming, for purposes of their application to charities, the S.349 definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation." Further, because many charities have section 501(c)(4) affiliates which engage in substantial lobbying activity, it is appropriate, in the interest of uniformity, to apply the tax law definition to section 501(c)(4) organizations as well.

2. Clarifying the incidental activity exclusion form the definition of lobbyist for employees lobbying directly on behalf of their employer.

Problem. For many organizations -- including many local charities -- the issue of whether they would be obligated to register under S. 349 will turn on whether they have any employees who qualify as "lobbyists" under the Act. Unfortunately, the Act's definition of "lobbyist" is highly subjective, and provides that the term "lobbyist" includes an employee whose activities include lobbying contacts "other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the [the employee's] services." The Act provides no standard for determining when an employee's lobbying activities cease to be "incidental" and become "significant".

Effect of proposed amendment. The proposed amendment alleviates this problem by establishing a bright line test which provides that an employee's lobbying activities will be treated as incidental and not significant if the employee devotes less than 10 percent of his time to lobbying activities.

Post-it™ brand fax transmittal memo

To [redacted]	From [redacted]
Co. [redacted]	Co.
Dept. [redacted]	Phone #
Fax #	Fax #

Draft: 3/3/93

PROPOSED AMENDMENTS TO S.349

THE LOBBYING DISCLOSURE ACT OF 1993

1. **Conforming the S.349 definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation" for purposes of the application of S.349 to organizations exempt from tax under sections 501(c)(3) and (c)(4) of the Internal Revenue Code.**

(a) Amend paragraph (8) of section 3 by inserting "(A)" immediately before the beginning of the first sentence, and by adding the following new subparagraph at the end of the final sentence:

> "(B) In the case of organizations exempt from taxation under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, "lobbying activities" shall include all activities, and only such activities, that constitute "influencing legislation" with respect to federal legislation within the meaning of section 4911(d) of the Internal Revenue Code."

(b) Amend paragraph (9) of section 3 by redesignating paragraph (B) as paragraph (C) and inserting immediately after paragraph (A) the following new paragraph:

> "(B) In the case of organizations exempt from taxation under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, "lobbying contacts" shall not include any activities that do not constitute "influencing legislation" within the meaning of section 4911(d) of the Internal Revenue Code."

2. **Clarifying the incidental activity exclusion from the definition of lobbyist for employees lobbying directly on behalf of their employer.**

Amend paragraph (10) of section 3 by inserting "(A)" immediately before the beginning of the sentence, and by adding the following new subparagraph at the end of the sentence:

> "(B) In the case of an employee conducting lobbying activities directly on behalf of his employer (that is, where the employer is also the "client" within the meaning of section 3(2)), the employee's lobbying activities shall be treated as "incidental to" and "not a significant part

Draft: 3/3/93

PROPOSED AMENDMENTS TO S.349

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of" the employee's services if the employee devotes less than 10 percent of his time to lobbying activities.

3. **Increasing the semi-annual expenditure threshold from $1,000 to $10,000.**

   Amend paragraph (2) of subsection 4(a) by deleting "$1,000" and inserting in place thereof "$10,000".

4. **Establishing the Office of Lobbying Registration and Public Disclosure within the Office of Government Ethics rather than the Department of Justice.**

   (a) Amend paragraph (1) of subsection 6(a) by deleting "Department of Justice" and substituting in place thereof "Office of Government Ethics".

   (b) Amend paragraph (2) of subsection 6(a) by deleting "Department of Justice" and substituting in place thereof "Office of Government Ethics".

5. **Extending the filing deadline for initial registrations and semi-annual reports from 30 to 90 days.**

   (a) Amend paragraph (1) of subsection 4(a) by deleting "30" and inserting in place thereof "90".

   (b) Amend subsection (a) of section (5) by deleting "30" and inserting in place therefor "90".

6. **Eliminating the requirement that semi-annual reports include an amendment of the description in the initial registration statement as to the general issue areas and specific issues with respect to which the registrant has lobbied or expects to lobby.**

   Amend paragraph (1) of subsection 5(b) by inserting, immediately after the word "registration", and before the semi-colon, the phrase "with respect to the requirements of paragraphs (1) through (4) of subsection 4(b)".

RATIONALE FOR

PROPOSED AMENDMENTS TO S.349

1. **Conforming the S.349 definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation" for purposes of the application of S.349 to organizations exempt from tax under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code.**

Problem: In 1976, Congress established detailed rules governing the lobbying activities of organizations exempt from tax under section 501(c)(3). These rules, codified in sections 501(h) and 4911 of the Internal Revenue Code, include a detailed statutory definition of "influencing legislation," contained in section 4911(d). In 1990, the Treasury issued 40 pages of regulations interpreting these statutory provisions -- regulations charities must understand in order to comply with the tax law restrictions on lobbying.

S.349 would require charities to understand and comply with a second complex definition of lobbying. While similar in many respects, the two definitions are substantially different in others. For example, while the tax law definition includes all grassroots lobbying with respect to federal legislation, S.349 includes only grassroots lobbying "in direct support of [direct] lobbying contacts." On the other hand, unlike the S.349 definition, the tax law definition does not include efforts to influence executive branch decisions. Finally, while both the tax law definition and S.349 provide lists of exclusions from the definition of lobbying, these lists, while overlapping, are not the same.

Charities have already committed substantial time and resources to establishing record-keeping and reporting systems to track the information required to comply with the tax law rules. Forcing them to understand a second, complex, and conflicting definition would be quite burdensome, and, as a practical matter would be a significant deterrent to lobbying by many charities.

While S.349 makes some effort to reduce the burden of imposing a second definition of lobbying on charities, the root problem remains. For example, while S.349 permits charities to use the tax definition in calculating lobbying expenditures to be reported under the Act, charities would still be required to track, and report, all contacts with executive branch officials.

The supporters of S.349 have failed to demonstrate any compelling public need to justify the substantial burden -- and chilling effect -- inherent in requiring charities to understand and comply with a second definition of lobbying.

Effect of proposed amendment: The proposed amendment eliminates the problem by conforming, for purposes of their application to charities, the S.349 definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation." Further, because many charities have section 501(c)(4) affiliates which engage in substantial lobbying activity, it is appropriate, in the interest of uniformity, to apply the tax law definition to section 501(c)(4) organizations as well.

2. **Clarifying the incidental activity exclusion form the definition of lobbyist for employees lobbying directly on behalf of their employer.**

Problem. For many organizations -- including many local charities -- the issue of whether they would be obligated to register under S. 349 will turn on whether they have any employees who qualify as "lobbyists" under the Act. Unfortunately, the Act's definition of "lobbyist" is highly subjective, and provides that the term "lobbyist" includes an employee whose activities include lobbying contacts "other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the [the employee's] services." The Act provides no standard for determining when an employee's lobbying activities cease to be "incidental" and become "significant".

Effect of proposed amendment. The proposed amendment alleviates this problem by establishing a bright line test which provides that an employee's lobbying activities will be treated as incidental and not significant if the employee devotes less than 10 percent of his time to lobbying activities.

3. **Increasing the semi-annual expenditure threshold from $1,000 to $10,000.**

Problem: As introduced, S.349 exempts organizations from registration and reporting provided that the organization's lobbying expenditures do not equal or exceed $1,000 in a six month period. This low expenditure threshold could inappropriately subject many local charities to the Act's registration and reporting requirements.

Effect of proposed amendment: The proposed amendment would substantially alleviate this problem by establishing a more realistic expenditure threshold.

4. **Establishing the Office of Lobbying Registration and Public Disclosure within the Office of Government Ethics rather than the Department of Justice.**

Problem. Assigning responsibility for oversight of a constitutionally protected activity to a law enforcement agency is without precedent, and would create serious risk of inappropriate regulation and restriction of lobbying activities.

Effect of proposed amendment. The proposed amendment transfers authority for administering the Act to the Office of Government Ethics.

5. **Extending the filing deadline for initial registrations and semi-annual reports from 30 to 90 days.**

Problem. Many organizations, particularly large, decentralized organizations with numerous branch offices, will have difficulty collecting and compiling data on branch office lobbying activities within the 30 day reporting periods provided by S.349.

Effect of proposed amendment. The proposed amendment establishes a more reasonable 90 day filing period for both the initial registration statement and the semi-annual reports.

6. **Eliminating the requirement that semi-annual reports include an amendment of the description in the initial registration statement as to the general issue areas and specific issues with respect to which the registrant has lobbied or expects to lobby.**

Problem. As currently drafted, section 5(b) not only requires that semi-annual reports include a list of specific issues upon which the registrant has engaged in significant lobbying during the filing period (section 5(2)(A)), but also a highly redundant "updating" of the statement required in the initial registration (section 4(b)(5)), as to the general issue areas and specific issues on which the registrant expects to lobby.

Effect of proposed amendment. The proposed amendment makes clear that the semi-annual report does not need to include an updating of the registration statement's initial description of the general areas and specific issues on which the registrant has lobbied or plans to lobby. The proposed amendment would not affect the requirement that the semi-annual report include a list of the specific issues on which the registrant has lobbied during the reporting period.

Alliance for Justice

A National Association of Organizations Working for Equal Justice

1601 Connecticut Avenue, N.W. Suite 600 ■ Washington, D.C. 20009 ■ 202/332-3224

FAX COVER SHEET

Date February 25, 1993

Number of Pages (including cover) 5

TO: Melanne Verveer

FROM: Nan Aron

MESSAGE:

Melanne,

This bill is moving very quickly. We'd like to meet with you as soon as possible to discuss our position.

Thank you!

Alliance for Justice fax number (202) 265-2150

Alliance for Justice

A National Association of Organizations Working for Equal Justice

1601 Connecticut Avenue, N.W. Suite 600 ■ Washington, D.C. 20009 ■ 202/332-3224

NAN ARON
Executive Director

FRANCES DUBROWSKI
Chair

February 24, 1993

Honorable Carl Levin
Chairman
Subcommittee on Oversight of Government Management
Committee on Governmental Affairs
United States Senate
442 Hart Office Building
Washington, D.C. 20510

Dear Chairman Levin:

We learned yesterday afternoon that the Governmental Affairs Committee is planning to mark up the Lobbying Disclosure Act of 1993 on February 25, 1993. We are writing first to ask that you delay this mark up until the Senate has an opportunity to hold hearings on this bill. We believe the views of the Department of Justice are essential, given the role it will assume pursuant to this legislation. Because of the problems identified below, we believe hearings are necessary to identify and address concerns that the bill raises for the nonprofit community.

We recognize and support your desire "to afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government." However, as written we believe that this bill will discourage citizen involvement in government decision making. In order to avoid this serious, unintended consequence, we propose the following amendments.

1. THE THRESHOLD FOR COMPLIANCE SHOULD BE 20 PERCENT OF THE TOTAL BUDGET OF AN ORGANIZATION OR BUSINESS.

The Act's threshold of $1,000 per six-month period for exclusion from the bill's registration and reporting requirements is too low and will have the unintended, adverse effect of burdening many small non-profit organizations of modest means. Because the bill is intended to focus on moneyed interests, rather than small citizen groups, we suggest setting compliance as a percentage of an organization or business's total budget.

2. REPORTABLE EXECUTIVE BRANCH LOBBYING SHOULD BE LIMITED TO BYRD AMENDMENT CONTACTS.

The Act would require public interest organizations to record and report every occasion on which they communicate with high level federal administrative officials on any matter, a potentially enormous burden for many nonprofit and other citizen organizations. The Act thereby disrupts the carefully constructed balance under existing law, under which efforts to influence federal policy are unfettered while efforts to obtain federal funds in the form of grants, contracts and loans, are subject to disclosure through the Byrd Amendment. This scheme was put in place by Congress only three years ago, and there is no evidence that it does not adequately protect the public against abusive lobbying practices. Broader proposals to expand disclosure rules to include nonprofits' executive branch communications previously have been rejected by Congress as unnecessary.

This problem can be amended by deleting (ii) of section (9)(A) on page 6 of the bill and by making sure that the language of section (iii) coincides precisely with the Byrd Amendment requirements.

3. THE OFFICE OF GOVERNMENT ETHICS SHOULD HAVE THE RESPONSIBILITY FOR WRITING REGULATIONS FOR LOBBYING DISCLOSURE AND FOR INVESTIGATING VIOLATIONS.

The selection of DOJ as the enforcement agency for the new lobbying disclosure requirements gives rise to very serious concerns. DOJ is the chief law enforcement agency of the federal government, with full access to the investigatory resources of the FBI. While the Act itself contains no explicit criminal penalties for violating its provisions, there are numerous provisions of the U.S. Criminal Code, including the RICO and civil conspiracy provisions, which could be brought to bear by aggressive prosecutors. The Act contemplates that the new agency may share information which it receives with other divisions within the department, an especially pernicious practice if it is the Department's own actions or policies that are the subject of an organization's lobbying activities.

4. A NUMBER OF GAPS IN THE ACT'S SCHEME AND THE VAGUENESS OF MANY OF ITS TERMS MUST BE CLARIFIED.

These gaps leave room for overzealous regulators to impose their own notions of the information to be disclosed. The Act grants virtually unlimited authority to the Department of Justice Office of Lobbying Registration And Public Disclosure to promulgate regulations having the force of law and to issue other binding pronouncements which will inevitably expand the reach of the Act's requirements. Among the critical issues delegated to the agency to resolve are:

-- how are lobbying activities conducted by affiliated organizations to be treated?

-- when does research constitute reportable "efforts in support of" lobbying, and when are grassroots lobbying activities "in direct support" of direct lobbying contacts?

-- how are multi-purpose expenditures to be allocated between lobbying and nonlobbying accounts?

-- what "agencies" will lobbying organizations have to identify in their reports?

-- how are lobbyists to report contacts with members of Congress who are not members of a Committee to which legislation has been assigned?

-- how are "significant" and "minor" violations to be defined?

-- must churches and other religious organizations that do not currently report their lobbying activities to IRS file reports under the Act?

-- which agency officials must request information in order for the Act's technical assistance exemption to apply?

-- to what degree of detail must registered lobbyists describe the "specific issues" upon which they have engaged in lobbying activities?

-- what records must organizations maintain in order to demonstrate that they have made a "good faith estimate" of their lobbying expenditures?

-- who is an "independent contractor or agent" whose activities do not have to be reported?

5. STATE AND LOCAL OFFICIALS SHOULD NOT BE EXEMPTED FROM COMPLIANCE.

By exempting public officials who lobby, the act raises important issues of fairness. Apparently, the rationale for this exemption is that public officials are not currently covered by lobbying disclosure laws. If the purpose of this legislation is to close loopholes, then the present exclusion of state and local officials is not a sufficient reason for maintaining the exemption.

State and local public officials routinely engage in a broad range of activities to influence policies of the legislative and executive branches of the federal government. A large number of states and local governments maintain offices in the District of Columbia for this very purpose. On many issues of importance to the public, including regulation of the environment, administration of social welfare programs, and the appropriation and distribution of federal funds, state and local officials represent a narrow point of view which does not always coincide with the public interest.

It is inappropriate, if not dangerous, to grant to any federal agency such unbridled authority to control the constitutionally protected activities of citizens. Thank you for considering these concerns.

Sincerely,

Nan Aron
Executive Director

Sandy Levin -

C3. different def'nts. / gd faith -

re: # Concerned

What causes -
what issues
What agenda

① treatment of small groups.
10% of time work?

② Enforcement -

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM

FAX COVER SHEET

DATE: 3/22

TO: Melanne Verveer

FROM: David Saperstein

NUMBER OF PAGES INCLUDING COVER SHEET: 4

ANY QUESTIONS CALL (202) 387-2800

2027 Massachusetts Ave NW
Washington, DC 20036
(202) 387-2800

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM

March 22,1993

To: Donsia Strong
From: David Saperstein
Re: Lobby Disclosure update for your Monday and Tuesday discussions
cc: Melanne Verveer, Bruce Reed, Frank Monahan, Oliver Thomas

It was a delight speaking with you Friday and it helped clarify some of the confusion on our side -- as I hope it did on yours as well. I spoke with Frank and Buzz and, as you and I agreed, we won't take the time at this point for a face-to-face meeting.

Let me, instead, respond in writing to some of the concerns that have been raised by various people with whom I have met or spoken with recently, including yourself, Michael Waldman, Melanne Verveer, and Senator Levin, with whom I also met on Friday.

The language in the Glickman letter I left in your office Friday spells out the general concern, and (with actual language) suggested solutions to, the religious community's unanimous belief that only a specific religious exemption in the Lobby Disclosure Act can protect our religious liberty interests.

Let me, however, add some more information which will be helpful for your deliberations.

The Religious Action Center pursues social justice and religious liberty by mobilizing the American Jewish Community and serving as its advocate in the nation's capital

2027 Massachusetts Ave., NW
Washington, DC 20036
(202) 387-2800

Rabbi David Saperstein
Director and Counsel

Rabbi Lynne Landsberg
Associate Director

Evely Laser Shlensky,
Chairperson
Commission on Social Action
of Reform Judaism

Rabbi Eric Yoffie
Director
Commission on Social Action
of Reform Judaism

The Religious Action Center is under the auspices of the Commission on Social Action of Reform Judaism, a joint instrumentality of the Central Conference of American Rabbis and the Union of American Hebrew Congregations with its affiliates: American Conference of Cantors, Association of Reform Zionists of America, National Federation of Temple Brotherhoods, National Federation of Temple Sisterhoods, North American Federation of Temple Youth.

A. The Process

1. Senator Levin agrees that religious groups should not fall under the act for constitutional reasons.

2. He is reticent, however, to give a specific legislative exemption for fear of sending a message that the religious exemption is not constitutionally mandated. He feels that by giving a legislative exemption federally, we send a message to the states that without a similar explicit exemption, religious groups would be assumed to be covered by similar legislation. This will be referred to in this memo as the "but for" problem.

3. He will not, however, stand in the way of the religious groups if we continue to feel so strongly about this issue. He does not wish to have a debate on the floor of the Senate on the exemption and therefore his preferred way of resolving this issue would be, if the House sponsors are so inclined, to have the exemption given in the House bill and the Senate accept it in a conference report.

4. The House sponsors seem to be sympathetic to such an approach. However, they want to be sure that the White House does not object.

5. In the meantime, I understand that Peter Levine has already told House staff -- and the Senator is willing to tell the House sponsors -- that the Senator does not object to the House including the exemption.

B. The Issues

1. The language for the exemption we are suggesting is tried and tested language from IRS provisions. It refers to ecclesiastical bodies. Such bodies do not include groups like the 700 Club or the Christian Coalition (which isn't even a 501(c)(3)). For example, Reverend Jerry Falwell's church would be included but not his Moral Majority -- if it still existed. If he used more than 5% of his church funds for advocacy purposes or any money for electoral purposes, it could lose its 501(c)(3) exemption. I can think of none of the religious rights advocacy or electoral organizations (or similar groups on the left for that matter) that would be protected by this exemption.

2. We know that we take some risk with the "but for" problem. The litigators for the national religious bodies, as well as the church-state experts affiliated with the religious organizations, are all unanimous that we will be far better off with the risks that giving us the exemption entail as opposed to the risks we face if there is no exemption. Believe me when I tell you that the last thing they want is to get their client into court more than absolutely necessary. They would not be pushing so hard if they didn't feel the exemption was the most protective means of preserving our religious liberty interests involved.

3. We believe that we can further mitigate the potential "but for" problem

by referencing the First Amendment as the source of the exemption. How to do it is a drafting problem that you are far more skilled at than I but there are several obvious approaches:

Inserting a phrase like: "in consonance with the requirements of the First Amendment" could be used in the exemption language itself;

A reference to the bill being in consonance with the First Amendment's church-state requirements can be set out in the findings; and/or

a full explanation can be given in the Committee Report language.

Please keep in mind that the Supreme Court has recently given dramatically less weight to legislative history in its interpretation of Congressional legislation (which is why only citing the exemption in committee report language, as last year's bill did, gives us little protection). The state courts (and even other Federal courts) in general, continue to take legislative history seriously. Therefore, careful history giving the rationale of an explicitly stated exemption can deter state presumptions that religious groups are not constitutionally exempted from their disclosure bills.

4. The passage of RFRA will strengthen our case if we end up in Court but it will do nothing to mitigate the chances that some regulatory agency will try to bring us under the provisions of the act. The bill does nothing to shift presumptions about whether Congress intended religious groups to come under the lobby disclosure bill or not.

5. Let me emphasize: RFRA does not "solve" our problems. Over the past decade, the Supreme Court (and therefore many lower courts) have found "compelling interest" in an extraordinarily broad array of governmental activity and regulation. "Clean government" would certainly fall into that category for many courts as would "not exempting any groups from clean government regulation." Even if we were to win under RFRA, we do not want to embroil churches and synagogues in litigating this problem.

6. It is not likely that picking up the extra vote on White's replacement will change the outcome of a Supreme Court ruling on this issue. (Remember, Stevens Kennedy, Scalia, and Rhenquist voted with the majority in Smith; Thomas would certainly join them; and O'Connor's concurrence is exactly the broad view of "compelling interest" that will jeopardize our position should it get to the High Court.) Since future replacements are likely to come from the liberal wing, there would be no gain on this particular issue in the forseeable future.

7. Finally, just a reminder that the Independent Sector groups and the ACLU recognize the distinctive religious liberty issues in our concerns, and do not see it as a precedent for the other issues being raised by the charities.

March 22, 1993

MEMORANDUM FOR BRUCE REED
MICHAEL WALDMAN
MELANNE VEREER
BETH NOLAN

FROM: DONSIA STRONG

SUBJECT: LOBBYING DISCLOSURE ACT OF 1993

This memorandum sets forth options for strenthening the Lobbying Disclosure Act of 1993.

As you may know, Senator Levin and Representative Bryant have introduced the Lobbying Disclosure Act of 1993, S.349 and H.R. 823 respectively. The bills are identical. The bills would require paid professional lobbyists to register with a new office in the Department of Justice upon having a "lobbying contact" with a covered official. Covered officials include Members of Congress, their staff and committees. In addition, for the first time a "lobbying contact" with executive branch officials would trigger a registration requirement.

President Clinton has repeatedly stated that polictical reform is one of his administration's highest priorities. The following options are designed to ensure that political reform is real.

1. Require lobbyists to disclose their campaign contributions.

2. Require lobbyists to disclose their bundling activities in total.

3 . Require lobbyists to dislose the PACs they contribute to.

4. Establish a code of ethics for lobbyists. (Montana has a law like this.)

5. Require all lobbyists reports and statments to be under oath.

6. Require each lobbyist listed to sign the registration and report statements.

7. Require separate disclosures for grassroots expenditures and issues encouraged in grassroots lobbying. (i.e. artificially stimulated letter writing or telephone calling campaign)

8. Impose late fees for late semi-annual reports.

9. Require congressmen and certain cabinet level officals to report lobbying contacts.

10. Set strict spending limits for lobbyists activities.

11. Provide for publication of initial rgistration in the <u>Congressional Record</u>.

12. Require lobbyists to disclose gifts to Congressmen and their staff.

13. Require lobbyists lobbying for a joint venture involving a foreign enitiy to disclose the foreign entity notwithstanding the 20% test.

14. Clearly set forth archival responsibilty time limit. Bye.

15. Limit all gifts from lobbyists to Congress.

Attachment #1

A Comparison of Treasury Regulations Issued August 31, 1990, Implementing the 1976 Lobby Law and Definitions of Lobbying Under H.R. 823/S. 349 "Lobbying Disclosure Act of 1993"

Following is a comparison between definitions related to lobbying under Public Law 94-455 and regulations, and H.R. 823/S.349. The comparison is drawn from H.R. 823/S.349, the Internal Revenue Code, the IRS Regulations and related documents.

(Note: IN SOME INSTANCES, the definitions are only roughly analogous so comparisons are sometimes inexact.)

	Treasury Regulations Implementing Section 1307 of PL-94-455 (From I.R.C. Sec. 4911)	Lobbying Disclosure Act of 1993
	Influencing Legislation:	
1	A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and;	Lobbying activities include grass roots lobbying communications (as defined in regulations implementing section 4911(c)(3) of the Internal Revenue Code of 1986) to the extent that such activities are made *in* direct support of lobbying contacts. Sec 3 (8)
2	B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.	The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Sec. 3(8)

	Treasury Regulations Implementing Section 1307 of PL-94-455 (From I.R.C. Sec. 4911)	Lobbying Disclosure Act of 1993
	Other Definitions and Special Rules.	
3	***Legislation.*** The term "legislation" includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State Legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.	The term "lobbying" contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to– (i) the formulation, modification, or adoption of Federal legislation (including legislative proposals); (ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or (iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) except that it does not include communications that are made to officials serving in the Senior Executive Service or the uniformed services in the agency responsible for taking such action.
4	**Action.** The term "action" is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.	See 3 above.
	Communications with members. --	
5	(Direct Lobbying) A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate with a legislator, etc., to influence legislation.	Lobbying activities [which include] coordination with the *lobbying* activities of others. Sec 3(8)
6	(Grass Roots Lobbying) B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate with legislators is grass roots lobbying because it attempts to affect the opinions of the general public or a segment thereof.	Lobbying activities include grass roots lobbying communications (as defined in regulations implementing section 4911(c)(3) of the Internal Revenue Code of 1986) to the extent that such activities are made in direct support of lobbying contacts. Sec 3(8)

	Treasury Regulations Implementing Section 1307 of PL-94-455 (From I.R.C. Sec. 4911)	Lobbying Disclosure Act of 1993
	Exceptions. --"influencing legislation" does not include--	
7	A) making available the results of nonpartisan analysis, study or research;	No exception for charities.
8	B) providing of technical advice or assistance (for such advice that would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;	Disclosure not required.
9	C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organizations, its powers, and duties, tax-exempt status, or the deduction of contributions to the organizations;	No exception for charities.
10	D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than a communication between an organization and any bona fide member of such organization to directly encourage such member to communicate with a legislator as described in (B) above.	No exception for charities.
11	E) any communication with a government official or an employee, other than-- (i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or (ii) a communication the principal purpose of which is to influence legislation.	No exception for charities.
12	***Affiliated Organizations.*** If for a taxable year two or more organizations described in Section 501(c)(3) are members of an affiliated group of organizations (as defined) then...(note: what follows at this point is a complex description when organizations are affiliated and should be treated as one entity).	The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organizations, firm, partnership, society, joint stock company, *or group of organizations*. (Emphasis added.)

Senate / House version

Attachment #1

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A Comparison of Treasury Regulations Issued August 31, 1990, Implementing the 1976 Lobby Law and Definitions of Lobbying Under H.R. 823/S. 349 "Lobbying Disclosure Act of 1993"

Following is a comparison between definitions related to lobbying under Public Law 94-455 and regulations, and H.R. 823/S.349. The comparison is drawn from H.R. 823/S.349, the Internal Revenue Code, the IRS Regulations and related documents.

(Note: IN SOME INSTANCES, the definitions are only roughly analogous so comparisons are sometimes inexact.)

	Treasury Regulations Implementing Section 1307 of PL-94-455 (From I.R.C. Sec. 4911)	Lobbying Disclosure Act of 1993
	Influencing Legislation:	
1	A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and;	SAME (Sec. 3(8) incorporates IRS rules on grass roots lobbying by reference)
2	B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.	See 3 below.

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	Treasury Regulations Implementing Section 1307 of P.L.-94-455 (From I.R.C. Sec. 4911)	Lobbying Disclosure Act of 1993
	Other Definitions and Special Rules.	
3	***Legislation.*** The term "legislation" includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State Legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.	The term "lobbying" contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to-- (i) the formulation, modification, or adoption of Federal legislation (including legislative proposals); (ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or (iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) except that it does not include communications that are made to officials serving in the Senior Executive Service or the uniformed services in the agency responsible for taking such action.
4	**Action.** The term "action" is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.	See 3 above.
	Communications with members. --	
5	(Direct Lobbying) A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate with a legislator, etc., to influence legislation.	SAME (Sec. 3(8) incorporates IRS rules on grass roots lobbying by reference)
6	(Grass Roots Lobbying) B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate with legislators is grass roots lobbying because it attempts to affect the opinions of the general public or a segment thereof.	SAME (Sec. 3(8) incorporates IRS rules on grass roots lobbying by reference)

	Treasury Regulations Implementing Section 1307 of PL-94-455 (From I.R.C. Sec. 4911).	Lobbying Disclosure Act of 1993
	Exceptions. --"Influencing legislation" does not include--	
7	A) making available the results of nonpartisan analysis, study or research;	SAME (S. Rep. cross-references the IRS regs (p. 36))
8	B) providing of technical advice or assistance (for such advice that would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;	SAME (Sec. 3(9)(B)(viii) excludes written info. provided in response to a specific written request)
9	C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organizations, its powers, and duties, tax-exempt status, or the deduction of contributions to the organizations;	NO EXCEPTION -- "Self-defense" lobbying is covered
10	D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than a communication between an organization and any bona fide member of such organization to directly encourage such member to communicate with a legislator as described in (B) above.	SAME (Sec. 3(8) incorporates IRS rules on grass roots lobbying by reference)
11	E) any communication with a government official or an employee, other than-- (i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or (ii) a communication the principal purpose of which is to influence legislation.	See 3 above.
12	*Affiliated Organizations.* If for a taxable year two or more organizations described in Section 501(c)(3) are members of an affiliated group of organizations (as defined) then...(note: what follows at this point is a complex description when organizations are affiliated and should be treated as one entity).	NO REQUIREMENT -- Reporting on the lobbying expenses of affiliated orgs. is not required.

Alliance for Justice

A National Association of Organizations Working for Equal Justice

1601 Connecticut Avenue, N.W. Suite 600 ■ Washington, D.C. 20000 ■ 202/332-3224

NAN ARON
Executive Director

FRANCES DUBROWSKI
Chair

March 26, 1993

Melanne Verveer
Office of the First Lady
Old Executive Office Building
Room 100
Washington, DC 20500

Dear Melanne:

Bob Smucker indicated that you asked for specific information on some of the positions being advanced by the nonprofit sector.

I hope the enclosed will be useful.

Sincerely,

Nan

Nan Aron
Executive Director

cc: Judy Golub

THE LOBBYING DISCLOSURE ACT OF 1993

Talking Points

Coverage of Executive Branch Lobbying Greatly Expands the Enforcement Burden and Chilling Effect of the Bill.

There are several important practical differences between legislative and executive branch lobbying from the standpoint of nonprofit organizations, all of which add to the complexity of the Act and, therefore, the burden which organizations will face in seeking to comply with it:

- as a general rule many more employees within an organization are likely to be involved in executive policy matters than are involved in legislative matters, which are frequently handled by one or two persons in the organization's Washington office; organizations may have employees in many places outside of Washington or within their national offices who relate to covered executive branch officials on a regular basis and whose activities will have to be recorded and reported;

- it is a relatively straightforward question whether a contact with a Member of Congress or Congressional staff person has taken place; under the Act, however, contacts with only certain executive officials are covered, thereby requiring organizations to master the federal compensation system or make special inquiries in order to determine whether covered contacts have taken place;

- it is also a relatively straightforward question whether a legislative contact involves "the formulation, modification, or adoption of Federal legislation"; in contrast, whether an executive branch contact involves the "formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government" introduces an array of definitional issues for which there is no common understanding;

- the exemptions in section 3(9)(b) relating to legislative lobbying generally track the exceptions in the Internal Revenue Code and other similar provisions with which nonprofit organizations are familiar; however, with respect to executive branch lobbying the Act introduces a number of new exemptions for which there is no common understanding and which will force organizations to make many additional difficult determinations in connection with their registration and reporting obligations.

It needs to be emphasized, in addition, that under existing law (the Byrd Amendment), nonprofit organizations are already subject to recently enacted reporting requirements with respect to their efforts to obtain federal grants and contracts. Nonprofits are not arguing for repeal of the Byrd Amendment; they object to the vast expansion of the types of federal actions which they are required to report under the Act.

There Are Legitimate Reasons To Treat Lobbying By Nonprofits Differently From the Lobbying Efforts of Big Business

It is not true, as some supporters of the Act have argued, that the Act creates a level playing field for all persons who seek to influence federal policy. Wealthy individuals who can afford to spend their own funds to influence Congress or the Executive are completely exempt from the Act's coverage. The real question posed by the bill is, therefore, why less affluent citizens who cannot afford to lobby on their own should be inhibited from joining together into organizations in order to exercise their right to petition the government.

The Supreme Court has recognized, in the analogous area of federal campaign regulation, that citizens have a right to join in organizational activities without having to satisfy the burdensome organizational and disclosure rules imposed on corporations and labor organizations. The Court noted that nonprofit citizen organizations do not pose the same threat of political corruption as do entities that have access to great concentrations of wealth. Also, charitable organizations are prohibited by the Internal Revenue Code from engaging in the major means of exercising undue and unfair influence over federal policy decisions, making large campaign contributions and expenditures and otherwise rendering support to candidates for public office.

None of the hearings leading to development of the Act have uncovered any evidence of abuse by nonprofit organizations. Moreover, the policy related activities of nonprofits have been reviewed by Congress on several occasions in recent years and Congress has taken action both to encourage such activity and to regulate the manner in which it is conducted. Nonprofits are subject to limits on their expenditures for legislative lobbying which do not apply to any other type of entity, and, unlike individual taxpayers and businesses, they must report their lobbying expenditures to IRS and make these reports available to any member of the public upon request. There has been no showing that these requirements, applicable only to nonprofit organizations, are insufficient to protect the public interest.

Granting Enforcement Authority To the Department of Justice Creates Special Risks of Abuse of Civil Liberties.

The question has been asked, "What is so terrible about putting the new lobbying agency in the Department of Justice?" A number of things.

First, the Department of Justice is a partisan player on a wide variety of legislative and executive branch issues, including nominations for federal judicial appointments, law enforcement priority setting, litigation policies and positions, and major pieces of substantive legislation such as that involving our criminal laws. It is unwise to give the Department the opportunity to retaliate against those who oppose its positions. In contrast, the Federal Election Commission, which enforces the federal election campaign laws, has no involvment in substantive policy making outside its own field of regulatory interest.

Second, the Department of Justice has historically been driven by strong political pressures in all of its actions, resulting in part from the traditionally close relationship between the Attorney General and the President. These political concerns have no place in the regulation of an area of such great constitutional sensitivity as political speech.

Third, officials of the Office of Lobbying Registration and Public Disclosure will have direct access to the law enforcement resources of the Department, including the FBI and the Criminal Division. Drafters of the Act properly recognized that it is inappropriate to subject lobbying activities protected by the First Amendment to criminal penalties; unfortunately, by giving enforcement authority to the Department of Justice they totally undercut their own efforts. Criminal penalties may invoked by federal prosecutors under RICO and other federal criminal laws, and the FBI will be available, as it has been under the Foreign Agents Registration Act, to conduct investigations of alleged violations.

MEMORANDUM

TO: Melanne Verveer, Michael Waldman, Donsia Strong
FROM: Peter Levine
DATE: March 12, 1993
RE: The Lobbying Disclosure Act

Attached are the two memos that you requested at our meeting on Wednesday evening. The first memo addresses the issues raised by the 501(c)(3)'s; the second addresses the gifts issue raised by Common Cause.

If you have any questions about these memos, please call Linda Gustitus or Peter Levine at 224-3682.

3/12

Donsia -

Could you get copies to Melanne, Michael, and Bruce Reed for me?

Thanks -

Peter

3/12/93

Response to Concerns Expressed by 501(c)(3)'s About the Lobbying Disclosure Act of 1993

There are three basic elements of the Lobbying Disclosure Act: the coverage of the Act, the disclosure requirements, and the mechanisms for administration and enforcement. Independent Sector, the Alliance for Justice, and other 501(c)(3)'s have raised concerns about each of these elements.

The following memorandum outlines the 501(c)(3)'s basic concerns in each of these areas, what has been done to address these concerns, and what additional steps can be taken.

A. The Coverage of the Act

1. The issue. Some 501(c)(3)'s have made the argument that they should not be required to register as lobbyists at all. Others have expressed concern that small organizations that currently engage in only minimal lobbying may either be required to register or deterred from lobbying because they are afraid they would have to register.

2. What has been done. Excluding 501(c)(3)'s from the coverage of the bill is not a viable option. One of the primary objectives of the bill is to create a level playing field, and treat all lobbyists equitably, regardless of whom they may represent. However, the bill does contain two separate *de minimis* standards.

Under the first *de minimis* test, any individual whose lobbying activities "are only incidental to, and are not a significant part of" the services provided to the client, is not a lobbyist at all. This test is intended to limit the bill's coverage to professional lobbyists. Last year's report contains a series of examples of how this exception is intended to apply. For example, the report specifically states that:

> "A member of the regional affiliate of a national organization who comes to Washington once a year to meet with his or her Congressman and others as a part of a "week in Washington" program, would not be required to register, because this activity would not constitute a significant part of the person's overall job responsibilities. * * *

"The Director of a local charity with no Washington office, who comes to Washington for a few days to lobby on a single issue (but does not engage in other lobbying activities) would not be required to register, because that activity would not constitute a regular or significant part of the person's overall job responsibilities."

Under the second <u>de minimis</u> test, an organization that hires a professional lobbyist, but spends less than $1,000 on lobbying activities in a semi-annual period is not required to register.

3. <u>What else can be done</u>. The 501(c)(3)'s are not satisfied with the <u>de minimis</u> tests in the bill, because -- (a) they believe that the $1,000 threshold is too low; and (b) the "insignificant and incidental" test does not provide a sufficiently bright line to give them comfort. Additional steps can be taken to address each of these concerns. However, any steps we take cannot be limited to 501(c)(3)'s -- they must apply equally to all types of organizations.

a. <u>The threshold</u>. We could help 501(c)(3)'s and other small organizations by addressing the threshold issue. One option would be to simply raise the threshold. That would be tricky, however, because we don't want to exclude a lobbying firm that is hired by a client to engage in significant lobbying for a short period of time.

We think that a preferable approach would be to adopt a dual threshold, in recognition of the fact that the burden of registering the first time and coming within the coverage of the bill is greater than the incremental burden of registering for an additional client, if you are already registered for others. Under this approach --

o an organization would not have to register for <u>a particular client</u> if its receipts or expenditures for <u>that client</u> were under $1,000 for a semi-annual period; and

o an organization would not have to register for <u>any client</u> if its receipts or expenditures for <u>all clients</u> were under $5,000 for a semi-annual period.

This approach would raise the effective threshold for all small organizations to $5,000 for a semi-annual period, without giving any special treatment to 501(c)(3)'s. Our research shows that fewer than eight hundred 501(c)(3)'s (out of more than a hundred thousand nation-wide) report more than $10,000 in annual lobbying expenditures to the IRS (although this may not be the entire universe of 501(c)(3)'s making such expenditures).

b. The "incidental and insignificant" test. We could also help 501(c)(3)'s by drawing a brighter line as to when lobbying activities are "incidental and insignificant". Independent Sector has suggested that if lobbying activities are less than 10% of what a person does for his or her client, that person should not be required to register.

We agree. This bill is not intended to require registration by everybody who ever contacts Congress. It is intended to require the registration of paid, professional lobbyists. We believe that the 10% test would provide a good measure of whether lobbying is a regular part of a person's job, making that person a professional lobbyist.

However, we would prefer to adopt the 10% test in our Committee report, rather than in a floor amendment. The problem with putting a 10% test in the bill itself is that statutory language may be too subject to rigid interpretation and enforcement. We do not want the 10% standard to be interpreted in such a rigid way that it requires people to trak all of their time, to prove that they are not lobbyists. By keeping the subjective standard in the bill and adopting the bright line test in report language, we think we can avoid this unnecessary extreme.

B. The Disclosure Requirements

1. The issue. The 501(c)(3) are in a unique position, because they already have to disclose certain lobbying costs to the IRS, on the form 990. The IRS definition of lobbying pertains to efforts to influence legislation (whether through contacts with the legislative branch or the executive branch, or through grass roots communications). It does not include efforts to influence rules, regulations, policy decisions, or the decision to award contracts, grants, and loans, as does our bill.

Some 501(c)(3)'s believe that they should not be required to disclose anything beyond the dollar amounts already disclosed on the IRS form 990. Others argue that they should be allowed to use the IRS definition of lobbying, in lieu of the broader definition in our bill, when they make their disclosures under the Lobbying Disclosure Act.

2. What has been done. The bill already accords 501(c)(3)'s special treatment, in recognition of the burden imposed on them by the requirement to disclose lobbying costs to the IRS. Rather than require 501(c)(3)'s to track lobbying costs under two separate definitions, the bill allows them to disclose the same amounts that they disclose to the IRS for the purpose of the Lobbying Disclosure Act. Consequently, there is no requirement for 501(c)(3)'s to create two separate accounting systems or to keep two separate sets of books on lobbying costs.

In addition, the streamlined disclosure requirements of the bill minimize the burden of compliance. Since we don't require 501(c)(3)'s to do any accounting they aren't already doing for the IRS, the only new information they would be required to disclose is --

- o a list specific issues on which they engaged in significant lobbying activities;
- o a list of executive branch agencies and congressional committees contacted by their lobbyists; and
- o the names of their lobbyists.

This isn't a huge paperwork requirement, and it shouldn't be the kind of form it takes a squadron of lawyers to fill out.

3. What else can be done. The proposal of the 501(c)(3)'s that they be exempted from the disclosure requirements of this bill, or be allowed to use a narrower definition of lobbying for the purpose of their disclosures, is not acceptable.

We cannot use one definition for 501(c)(3)'s and another for everybody else. It would not be fair to say that X Corporation has to disclose its efforts to lobby for a contract, but Y Charity does not have to disclose its efforts to lobby for a grant. It would not be fair to say that X Corporation has to disclose when it lobbies on one side of a regulatory or licensing issue, but Y Interest Group does not have to disclose when it lobbies on the opposite side of the same issue.

The only additional step we can take in this area is to address the de minimis test, as described above. By excluding small organizations that engage in only minimal lobbying from the coverage of the bill, we can ensure that even the streamlined disclosure requirements imposed by the bill will be faced only by the larger 501(c)(3)'s.

C. Administration and Enforcement

1. The issue. Some representatives of 501(c)(3)'s have expressed concern that the enforcement provisions of the bill could chill the exercise of first amendment rights. The concern is that groups who lobby for disfavored causes could be harassed, or tied up in lengthy and expensive litigation.

2. What has been done. While one of the objectives of the Lobbying Disclosure Act is to create a registration system that is more than voluntary, the bill places clear limits on the enforcement authority of the Office of Lobbying Registration.

Unlike lobbying disclosure bills introduced in the late 70's (and the Foreign Agents Registration Act), the Lobbying Disclosure Act does not authorize audits or inspections of the files of registrants. In fact, the bill expressly prohibits such audits or inspections.

The only avenue for enforcement provided in the bill starts with an informal dispute resolution process: if the Office has reason to believe that a person is not in compliance with the statute, it must notify the person in writing and provide the person with an opportunity to respond to the allegation. If the explanation is adequate, the case is closed. If a non-compliance is admitted and corrected, the case is closed.[1]

Only if the non-compliance is denied, and the information or explanation provided is inadequate to determine whether the statute was violated, is the Office authorized to make a legally binding request for additional information. The bill expressly limits any such request to information that is reasonably necessary to determine whether the alleged noncompliance in fact exists, and requires that all requests be structured in a way to minimize the burden imposed. This is anything but a broad authorization to go fishing for possible violations.

If the case proceeds to a hearing, due process protections are invoked. In determining the amount of a penalty to be assessed, the Office is required to take into account the totality of the circumstances, including the extent of the noncompliance and such other matters as justice may require. The bill expressly prohibits the imposition of any penalty without an express finding that the person knew or should have known of the violation. And judicial review is available for any determination of noncompliance or penalty assessment.

Last June, the ACLU sent us a letter stating that the bill "on the whole achieves reform in a manner that is sensitive to civil liberties." The Bush Justice Department, by contrast, criticized the bill for the constraints it would place on its enforcement powers. The Justice Department letter stated:

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[1]An amendment adopted in the Senate mark-up expressly precludes any penalty for a minor non-compliance that is admitted and corrected; even a significant (i.e., knowing, extensive, and repeated) violation is subject to a maximum penalty of $10,000 if it is admitted and corrected.

"We note that S. 2766, like its predecessor S. 2279, establishes an elaborate and somewhat redundant set of procedures which significantly restrict and delay resolution of disputes under the Act. . . . The Department believes that enforcement would be enhanced by deleting the mandatory informal resolution determination and noncompliance mechanism is sections 7 and 8 and the Administrative Procedures Act hearing provisions of the bill, and by adding civil investigative demand authority.

"The bill should allow the Director, Office of Lobbying Registration and Public Disclosure to investigate more effectively and inspect records. Thus, we recommend deleting section 11's prohibition against any adequate audit or inspection authority. Further, the Department opposes the 'exhaustion of administrative enforcement mechanism' approach in the bill as an unwarranted restriction on its litigating authority and discretion."

Because we did not accede to any of these demands, we believe that the enforcement mechanisms of the bill remain sensitive to the need to avoid undue burdens on the exercise of first amendment rights and preclude abusive enforcement practices.

3. <u>What else can be done</u>. Independent Sector argues that "assigning responsibility for oversight of a constitutionally protected activity to a law enforcement agency is without precedent, and would create serious risk of inappropriate regulation and restriction of lobbying activities." They and others in the 501(c)(3) community have asked that we move this function out of the Justice Department and place it somewhere else -- whether at the Office of Government Ethics or the Federal Election Commission.

We believe we have already structured the enforcement mechanisms in the bill to provide maximum protection for first amendment rights. We are considering a few additional fine-tuning suggestions, including the following --

- Clarify that formal requests for information must be limited to requests for <u>documentary</u> information;

- Prohibit penalties for a refusal to provide information when the refusal is the result of a good faith dispute over the validity or appropriate scope of the request;

- Clarify that informal hearings (for minor violations) include the opportunity to present evidence; and

- Limit the period in which the Office can initiate an inquiry to 3 years after the date of the alleged noncompliance.

With all these protections built into the bill, we don't see any significant potential for abusive enforcement practices, regardless of which agency is responsible. Having already moved the enforcement responsibility from OGE to Justice (at the request of OGE and the ranking Republican on the Subcommittee), we don't really want to move it again.

3/12/93

Response to Gift Disclosure Issue
and the Lobbying Disclosure Act of 1993

Common Cause has attacked the Lobbying Disclosure Act of 1993, arguing that it is inadequate because it doesn't require lobbyists to itemize the "financial benefits" they provide to Members of Congress and their staffs. The New York Times has seconded this criticism in a series of harsh editorials.

There is no question that the current congressional gift rules are inadequate and should be changed. However, there are a number of problems with the Common Cause approach of requiring disclosure of gifts by lobbyists. These include the following:

1. Selective Coverage. Requiring lobbyists to disclose gifts would impose additional burdens on the registration system, but would not solve the gift problem. This approach would set up a huge loophole, subjecting Congress to more criticism, because gifts can be given not only by lobbyists, but also by other people with an interest in legislation. In view of this loophole, any significant gift which is permissible under the congressional gift rules could probably be given without disclosure. For example --

- If a lawyer-lobbyist invites a federal official to dinner, that would presumably have to be disclosed under the Common Cause approach. But if a partner in the same law firm -- who is not a lobbyist -- invites the same official to dinner, it would not have to be disclosed. This would be true even if the same people attended the dinner, ate the same food, and had the same conversation.

- If a lobbying firm were registered under the Act and paid for a reception for a federal official, that would presumably have to be disclosed. But if one of the firm's clients -- which was not registered -- were to pay for the reception instead, it would not have to be disclosed. Again, this would be true even if the same guests were present and had the same discussions.

Worse, this selective disclosure system would give people an incentive not to register as lobbyists, so as to fit into the loophole on gift disclosure. In other words, we could undermine effective lobbying disclosure by trying to add this additional element to the bill.

We might be able to get around some of these problems by having lobbyists develop extensive accounting systems to act as policemen for their clients, their partners, their officers, their directors, and their employees. But that kind of extensive policing system would create problems of its own.

2. Partial Measure. If the objective is to stop improper gifts to federal officials, what we need is an effective rule drawing the line between proper and improper gifts, and prohibiting the improper ones. This is what the Executive Branch has tried to achieve with its new gift rules, and it is what the Congress should try to achieve as well.

A requirement for lobbyists to disclose gifts would subject Members of Congress to potential embarassment without ever drawing a clear line as to what is, and is not, acceptable behavior. The simple fact of disclosure on a lobbyist's report would create the implication that the Member had done something wrong, and could subject the Member to attacks in the press or by opponents.

But not all so-called "gifts" are improper. Here are some examples of gifts that may be proper --

- The executive branch gift rules recognize that it is frequently in the government's interest for a federal official to travel to conferences, seminars, and speaking engagements, and authorize agencies to accept reimbursement for such travel. Under the Common Cause approach, however, such reimbursement for a legislative branch official would have to be reported as a "gift" (if reimbursed by a registered lobbyist), with the implication that it was somehow improper.

- The executive branch gift rules authorize federal officials to participate in widely-attended gatherings when such attendance will further agency programs or operations. Under the Common Cause approach, however, attendance at such an event by a legislative branch official would have to be reported as a "gift" (if the event is sponsored by a registered lobbyist), with the implication that it was somehow improper.

In fact, unless we incorporate the entire 15-page executive branch gift rule into the bill, lobbyists would be required to disclose "gifts" to executive branch officials as well. Again, the implication would be that these "gifts" were somehow improper, even if they were entirely appropriate under the stringent executive branch rules.

The potential for embarassment would be exacerbated by the fact that the reporting is in the hands of the lobbyist, who may make arbitrary decisions as to how much of the cost of an event to attribute to a particular public official. It is not impossible that a public official who simply attended a breakfast reception to give a speech could learn through the press that the entire cost of the reception had been reported by the lobbyist as a "gift".

Disclosure is not an objective in itself; Common Cause agrees that the ultimate objective is a strong gift rule which draws a clear line as to what is acceptable. Disclosure is intended as a means to that end -- by embarassing Members of Congress through public disclosure and the implication that improper activity is going on, Common Cause hopes to persuade Congress to enact stronger gift rules. The preferable approach would be to avoid the embarassment and move straight to the enactment of effective gift rules.

3. Difficult to Define. It would not be easy to come up with a workable approach to gift disclosure or prohibition for inclusion in this bill. Gift rules are extremely complex; the new executive branch rules took four years to draft and run to 15 pages, including all of the exceptions and exclusions.

Here are some examples of the complexities --

- The reception. If a corporation holds a Washington reception in honor of a public official, that would appear to be both a lobbying expense and a gift. But what if the same corporation holds a reception to honor its retiring Chief Executive Officer, and a public official is among the invitees? What if the reception to which the official is invited is at the ground-breaking on a new facility to be built in the official's home state? Are these "lobbying expenses" at all? Should the corporation be expected to itemize them as "gifts"?

- Entertainment. If a company invites a public official to a private showing of a new movie, that would appear to be both a lobbying expense and a gift. But what if the same company is sponsoring a new exhibit at the National Gallery, and public officials are invited to the opening -- is that "lobbying"? Is it a gift from the company that would have to be itemized?

- Meals. If a lobbyist invites a public official to dinner and picks up the tab, that would appear to be both a lobbying expense and a gift. But what if the invitation is to dinner at a private residence? Does it matter whether the dinner is catered?

These are all questions that can be answered. The point is not that these lines cannot be drawn, but that it isn't as easy as Common Cause would like us to think. It has taken us two years to come up with a workable definition of "lobbying" to get this bill ready to go; we can't afford to wait another two years before we enact it into law.

4. Defeats Streamlining Objective. Finally, requiring the itemization of gifts on a per Member (or agency official) basis would be inconsistent with the streamlining objective of the Lobbying Disclosure Act. We have tried to get away from the concept of itemized disclosure, to minimize record-keeping burdens and make it as easy as possible to comply. In this way, we hope to achieve our objective of registering every paid, professional lobbyist without the need to resort to massive enforcement efforts.

There are other practical issues as well. For example, this bill requires lobbying firms to file a separate registration and report for each client they represent. Suppose that a lobbying firm representing hundreds of clients were to give something to a federal official. To which client would that gift be attributed? To all of them? Would it be reported a hundred separate times, on a hundred separate forms?

Perhaps it would make the most sense to have lobbyists file separate reports on their gifts, so that these expenditures are not attributable to any specific client. But if we have separate gift reports, we come back to the original question -- why limit such disclosure to lobbyists alone? Why shouldn't anybody who gives a gift to a federal official file such a report? And if so, what relationship would the requirement have to this bill?

This is an important bill, which will result in the disclosure of hundreds of millions of dollars of lobbying going on behind closed doors in this city. Dozens of efforts to overhaul and reform these laws have failed over the last three decades. This bill is ready to go, and we should act on it, not take on new issues that could take additional months, or even years, to resolve.

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	Re: Meeting participants (partial) (1 page)	03/04/1993	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Verveer
OA/Box Number: 20037

FOLDER TITLE:

Independent Sector

2013-0534-S
ry1580

RESTRICTION CODES

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

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

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

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

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

Alliance for Justice

(474)

A National Association of Organizations Working for Equal Justice
1601 Connecticut Avenue, N.W. Suite 600 ■ Washington, D.C. 20009 ■ 202/332 3224

Fax to Melanne Verveer, Office of the First Lady: 456-6244

Meeting with Melanne Verveer @ the Old Executive Office Building Room 476 (enter on Pennsylvania), Friday, March 5, 1993 9:00am

List of Participants

Name	Date of Birth	Social Security #
Matt Ahmann		
LaVerne Alexander		
Nan Aron		
Gary Bass		
Kaid Benfield		
Frances Dubrowski		
Michael McCloskey		
Elliot Mincberg		
Frank Monahan		
Mario Moreno		
Edward Osann	(b)(6)	(b)(6)
Mark Rosenman		
Leonard Rubenstein		
Kerry Scanlon		
Carol Seifert		
Bob Smucker		
Michael Trister		
Nancy Watzman		
Cathy Wilson		
Jeanne Woods		

[001]

AJ

Just list lobbyists name

% - misleading - proportion - organization - 10% - huge 5% " allows biggest to bail out.

THE WHITE HOUSE

WASHINGTON

April 26, 1993

MEMORANDUM FOR CIRCULATION

FROM: DONSIA STRONG
Domestic Policy Council

SUBJECT: LOBBYING DISCLOSURE OF 1993

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

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

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

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

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

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

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

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

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

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

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

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

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

pp 9 and 10

(10) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts. An individual employed or retained by a lobbyist whose services are rendered in a clerical, secretarial, or in a similar or related capacity, shall not be deemed to be a lobbyist for purposes of this Act.

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CHARITIES AND THE LOBBYING DISCLOSURE ACT

Special Points

April 13, 1993

In its present form the Lobbying Disclosure Act of 1993 (S. 349 and H.R. 823) would seriously deter -- or curtail altogether -- much participation by the nation's charities in the federal policymaking process. Independent Sector supports six amendments of the Act to prevent or mitigate that effect. Descriptions of the amendments and the rationale for them have already been distributed to interested parties. For convenience, a list of the amendments is attached.

As the debate over the application of the Act to charities has unfolded this year, several key points have been either misunderstood or overlooked. This memorandum is intended to clarify and underscore them.

DEFINITION OF "LOBBYING"

Most important, Independent Sector strongly believes that the Act should, for all purposes, allow charities to use the definition of "lobbying" carefully devised for them in the 1976 tax law which Congress developed to encourage robust participation by charities in the public policy arena. Stark differences between charities, on the one hand, and businesses, trade associations, labor groups, and the other organizations to which the Act would apply -- differences both in the essential laws governing the two categories and in key facts of their situations -- afford powerful justification for enabling charities to rely on the tax law definition under which they have been operating for some years and with which they have become familiar.

Unique Nature of Laws Governing Charities

The legislative history of the Act suggests that the fundamental facts precipitating the legislation were contacts with federal officials by individuals or organizations which sought to derive private financial benefit from those contacts. The scandals at HUD from 1981 through 1988 and the abuses surrounding the Wedtech Corporation are clear examples. Contacts of this sort almost invariably possess their special capacity to produce the results at which they aim by reason of the ability of the individual or organization making the contact to take active part in the political campaign process to support the federal official being contacted or the Administration of which he or she is a part.

Charities, by their nature and by the special federal tax laws governing them, are barred from producing private benefit -- financial or otherwise -- and from participation in political campaigns. To be entitled to tax exemption and qualification to receive deductible charitable contributions, they must be established for religious, educational, or other charitable purposes -- all purposes which the law has long determined to be of <u>public</u>, not private, benefit. To reinforce that point, the tax law specifies that "no part of the [assets of a qualifying charity may inure] to the benefit of any private [party]."

Moreover, the tax law has long prohibited charities from participating in any political campaign for or against a candidate for public office. That bar is strict and absolute. A charity may not contribute to, organize, manage, or be identified with a PAC. It may not contribute to a political campaign. It may not endorse a candidate for political office. It may not in any other way, directly or indirectly, support or oppose a political campaign.

A charity which violates any of these rules loses its exemption and qualification to receive deductible contributions. A charity which violates the political prohibition also faces special penalty excise taxes and further serious sanctions.

Charities, then, are uniquely and stringently prohibited from the kinds of abuse which underlie the need for the Act. Unsurprisingly, the explanatory Committee Report refers to no single lobbying abuse by a charity.

<u>Private Purposes and Political Campaign Support of Business and Other Groups</u>

Businesses, trade associations, unions and other groups to which the Act would apply suffer from no such constraints. Their overriding objective is to produce private financial benefits -- whether to their shareholders, their members, or, often not incidentally, their executives. With that fundamental goal of private benefit, they couple an ability to support political campaigns which adds critical force to their lobbying efforts. A single illustration suffices.

Medical industry PACs contributed a total of over $60 million to Congressional candidates from 1981 through June 30, 1991. Medical professional PACs, representing doctors, dentists, and other medical practitioners, contributed somewhat more than $27 million of that total. Insurance industry PACs contributed more than $19 million. Pharmaceutical company and association PACs contributed over $8 million. PACs representing hospitals and other care providers contributed close to $6 million.

These figures paint only part -- perhaps a small part -- of the picture. They do not include the doubtlessly large soft money contributions by medical industry companies and associations to Presidential and Congressional campaigns. They do not include PAC contributions to Presidential campaigns. They do not include political contributions by pharmaceutical company and other industry executives and members of their families.

The frankly stated goal of these groups was -- and is -- to lobby against health care reform. Charities lobbying for health care reform, on the other hand, such as the Kaiser Foundation Health Plan, the Catholic Health Association, and the National Mental Health Association, are entirely barred from using any part of their funds for this key support for lobbying contacts.

Differences in Resources for Lobbying and Supportive Activities

While the law presently requires no reliable report of the lobbying expenditures of businesses, trade associations, and other non-charitable organizations, review of the 1991 profits of leading multi-billion dollar U.S. corporations provides an indication of the magnitude of the financial resources which they have available for lobbying -- and such supportive activities as contributions to PACs, soft money political contributions, and the payment of very large executive salaries which make possible liberal business-related campaign contributions by the executives themselves and members of their families.

Profits
($ millions)

Exxon	5,600.0	Mobil	1,920.0
Philip Morris	3,006.0	Coco-Cola	1,618.0
Merck	2,121.7	Boeing	1,567.0
Bristol-Myers Squibb	2,056.0	Johnson & Johnson	1,461.0

Corporations whose annual profits range well above $1 billion -- and whose assets are, of course, many times that amount -- can plainly afford to spend very large amounts for lobbying. In comparison, the amounts which charities spend on lobbying are very small potatoes. Indeed, being lower by so many orders of magnitude -- and being barred from the political contributions and other campaign support which gives such force to the lobbying contacts of corporations, trade associations and other groups -- charities' lobbying expenses are essentially different in kind from those of businesses and others.

The latest available IRS data shows that charities lobbying under the 1976 law had median annual expenses for that purpose in the range of $5,500. The National Committee for Prevention of Child Abuse and the Literacy Volunteers of America were in that class. Over 75 percent of this universe had less than $14,000 of annual lobbying expenditures. In that category were the National Hemophilia Foundation, the National Organization for Rare Disorders, and the Blinded Veterans Association.

Well under two percent of these charities spent more than $100,000 for lobbying. Substantially under one percent had lobbying expenditures over $200,000. The United Way of America, the American Heart Association, and the American Cancer Society were in the latter group.

Conclusion

The definitions of lobbying in the tax law and in the Act are similar in many respects, but they differ significantly in others.[1]

To compel charities to learn, teach their staffs, and keep the records required to comply with a complex new and different definition -- on pain of penalties up to $10,000 for "minor noncompliance" and up to $100,000 for "significant noncompliance" -- will plainly have a powerfully inhibiting impact on their willingness to conduct precisely those public policy activities which Congress, beginning in 1976, has so strongly sought to encourage through the tax laws. For smaller and mid-sized charities, the effect will often quite probably be to end policy activities at the federal level altogether. In view of the unique legal constraints which, together, govern charities alone among the individuals and organizations to which the Act applies, and the quantum difference between the financial resources which charities use for lobbying and those which businesses, trade associations, unions and other groups can bring to bear on their lobbying, it seems entirely appropriate to amend the Act to permit charities to use the tax definition of lobbying.

GREAT BULK OF LOBBYING CHARITIES ARE NOT ADVOCACY ORGANIZATIONS

The notion has become widespread that charities interested in lobbying are primarily "advocacy organizations," such as the ACLU

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1 For example: (1) Under the tax definition, discussions of a possible policy initiative become lobbying only when the concept ripens into a "specific legislative proposal." Under the Act, even the earliest of general discussions appears to constitute reportable lobbying. (2) Under the tax definition, lobbying does not include making the results of nonpartisan analysis, study, or research available to federal officials. Under the Act's definition, it does. (3) The tax law definition includes only efforts to influence legislation; it excludes efforts to influence Executive Branch decisions. The Act's definition includes both.

Foundation, some environmental organizations, and the National Abortion Rights Action League Foundation. Quite the contrary is true. The great preponderance of charities making use of the 1976 tax law for lobbying are groups such as the Alzheimers Disease and Related Disorders Association, the National, state and local Mental Health Associations, the National Council of YMCAs of the USA, the Student Loan Funding Corporation, the Arthritis Foundation, the Association of Junior Leagues International, and the March of Dimes Birth Defects Foundation.

There are, to be sure, some advocacy organizations in the group; but they constitute only a small part of the universe of charities which lobby.

LOBBYISTS FOR PRIVATE BENEFIT LARGELY SUPPORT THE ACT; CHARITIES AND GOOD GOVERNMENT GROUPS SEEK MODIFICATIONS

Paradoxically, lobbyists for private interests have expressed strong support for the Lobbying Disclosure Act, while charities and good government groups (for example, Common Cause) are the primary proponents of revising it. Tommy Boggs, perhaps the best known private lobbyist in Washington, is liberally quoted by the Senate Committee Report in support of the Act. Mr. Boggs himself represents 39 private corporations and trade associations, from MCI Communications to Westinghouse Electric. Other members of his firm represent a number of other such corporations and trade associations.

The American League of Lobbyists -- comprised of more than 400 private lobbyists -- has testified in strong support of the Act. Other prominent Washington lobbyists have urged passage of the Act. They include Lloyd Meads,[2] Thomas Sussman, of Ropes & Gray, and Howard D. Marlow. A recent article in the <u>National Journal</u> on this subject is attached.

Why do private lobbyists and lobbying organizations back the bill, and charities and good government groups press for significant amendments of it? One need not look far for the answer. Private lobbyists see the Act as an innocuous substitute for meaningful campaign finance reform, providing a means for Members of Congress to place themselves on record for reform while they later oppose or force seriously attenuating amendments of thoroughgoing reform of the campaign finance system. Further, the major private financial interests at stake are plainly ample to afford staffing for the recordkeeping and related responsibilities

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2 Though Mr. Meads now heads the American League of Lobbyists, he has testified in favor of the act in an individual capacity also.

which so intimidate charities with two, three, or four administrative personnel to manage their entire charitable, fundraising, and support functions.

THIS ADMINISTRATION SHOULD NOT FAVOR BURDENS ON CHARITIES' PARTICIPATION IN PUBLIC POLICY

The Clinton/Gore Campaign issued a strongly positive statement on the nonprofit sector. It affirmed that:

> A Clinton/Gore Administration will work to encourage further the role of the non-profit sector as the primary mechanism for citizen participation and as a force for empowerment of each and every individual.

It further noted that:

> We must leverage the resources of the non-profit sector and the experience of people working in the non-profit sector to help solve problems . . . .

Directly on point, it promised that "we will re-examine and clarify the lobbying restrictions placed on nonprofit organizations" -- hardly conveying the impression of substantial further tightening of those restrictions. During the Transition and since the Administration took office, Administration officials have sought -- and received -- assistance from a broad variety of charities. The Administration has worked productively and creatively with those charities. The charitable community hopes to continue and expand that collaborative role throughout both terms of the Administration.

Perhaps uniquely among Administrations in recent memory, then, this Administration should be the last to support further burdens on the public policy activities of charities -- and in the forefront of the opposition to them.

* * *

PROPOSED AMENDMENTS TO S. 349 AND H.R. 823

THE LOBBYING DISCLOSURE ACT OF 1993

1. Conforming the Act's definitions of "lobbying activities" and "lobbying contacts" to the Internal Revenue Code definition of "influencing legislation" for purposes of the application of the Act to organizations exempt from tax under section 501(c)(3) of the Internal Revenue Code.

2. Clarifying the incidental activity exclusion from the definition of lobbyist to cover employees spending less than 10% of their time lobbying.[1]

3. Increasing the semi-annual expenditure threshold from $1,000 to $10,000.

4. Establishing the Office of Lobbying Registration and Public Disclosure within the Office of Government Ethics rather than the Department of Justice.

5. Extending the filing deadline for initial registrations and semi-annual reports from 30 to 90 days.

6. Eliminating the requirement that semi-annual reports include an amendment of the description in the initial registration statement as to the general issue areas and specific issues with respect to which the registrant has lobbied or expects to lobby.

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1 The Senate Committee Report released April 12 accepts this amendment.

WHAT? LOBBYISTS WANT TO BE REGULATED?

BY PETER H. STONE

Beefing up the regulation of lobbying has long been a goal of public-interest groups but anathema to most lobbyists. Now, the tables have been turned.

A pending bill that would mandate more disclosure of lobbying is coming under fire from some public-interest groups and nonprofit organizations, which say that it's too onerous. Meanwhile, the bulk of the lobbying community is backing the bill or offering only token opposition. Even Thomas Hale Boggs Jr., the quintessential Washington influence merchant, has written of the need for tougher disclosure rules in *The New York Times*.

The legislation, introduced in the Senate by Carl Levin, D-Mich., is backed by the Clinton Administration and has been approved by the Governmental Affairs Committee. A House Judiciary subcommittee will hold hearings on March 31 on a virtually identical measure by Rep. John Bryant, D-Texas.

Among other things, the bill would broaden the definition of lobbying to include contacts with the executive branch as well as Congress. It would tighten reporting requirements for lobbyists representing foreign interests. And it would create a new enforcement office in the Justice Department with the power to levy monetary fines.

But a loose-knit coalition of about three dozen nonprofit groups, including Independent Sector, the Alliance for Justice, the National Wildlife Federation and the American Civil Liberties Union, has complained that the proposed legislation would crimp its lobbying ability—hurting smaller nonprofit groups especially—by creating a heavy regulatory burden. The coalition argues that some of the new disclosure requirements would be redundant because nonprofit groups already have to provide much of the same information to the Internal Revenue Service.

"We believe that new layers of complexity will have a chilling effect on smaller groups that seek to influence policy," said Ed Osann, director of the water resources program at the National Wildlife Federation.

Further, most of the nonprofits say that disclosure of executive branch lobbying should cover only efforts to influence decisions on spending, not discussions of policy. The groups also say they would prefer to have enforcement handled by an entity other than the Justice Department, such as the independent Office of Government Ethics. The legislation now would require any group that spends $1,000 or more on lobbying during a six-month period to file a report; several of the nonprofits want that threshold raised to $10,000.

WASHINGTON INC.

Some Members of Congress have been talking to the nonprofits and seem sympathetic. "I want to ensure that the unique status of these groups is considered as we formulate legislation to reform our inadequate lobbying disclosure laws," Rep. Dan Glickman, D-Kan., said. "It is my hope that these groups will not be forced into a situation where their ability to petition government is jeopardized."

The nonprofits contend that although the bill could impede their lobbying efforts, it won't hinder big corporate lobbyists. "The corporate community loves it because it won't be any problem for them," said Robert M. Smucker, a vice president with Independent Sector, an organization that represents nonprofit groups in Washington. "They can buy their way out of it. They can come off looking like good guys."

Indeed, many leading lobbyists have voiced their backing for the proposed reforms. Earlier this month, the 400-member American League of Lobbyists gave the bill its blessings.

To be sure, there are some naysayers. The American Society of Association Executives has allied with a few other trade groups that say the bill's definition of lobbying is overly broad. Specifically, they're upset that executive branch lobbying will now have to be disclosed.

Despite such requirements, some public-interest lobby groups such as Common Cause and Public Citizen Inc. say the bill doesn't go far enough. They have been pushing provisions that would force all lobbyists to publicly itemize all gifts, entertainment and free trips that they give Members and their staffs.

"The bill doesn't disclose anything in terms of the financial benefits that come from lobbyists," said Ann McBride, senior vice president of Common Cause. Such benefits should ultimately be banned, McBride said, but until then, disclosure is the best remedy for curbing abuses. Common Cause has noted that when President Clinton was Arkansas's governor, he successfully backed a lobbying bill with curbs on gifts.

Public Citizen also supports limits on gifts from lobbyists. But the group agrees that the proposed reporting threshold for lobbying expenditures is a bit too restrictive. It says that a report shouldn't be required unless a lobbyist receives or spends more than $5,000 during a six-month period.

For their part, Administration officials say that they want the toughest bill possible but don't want to overload it with requirements that could endanger its passage. Donsia Strong, a senior policy analyst at the White House who formerly was an aide to Bryant, has met with members of the nonprofit coalition about the bill and said that the Administration is sensitive to the concerns they've raised.

On page 11, strike out lines 15 through 19 and insert in lieu thereof the following:

(2)(A) Notwithstanding paragraph (1), any person whose total income (in the case of an organization described under section 5(b)(3)) or total expenses (in the case of an organization described under section 5(b)(4)) in connection with lobbying activities do not exceed, or are not expected to exceed—

(i) $1,000 in a semiannual period on behalf of a particular client, or

(ii) $5,000 in a semiannual period on behalf of all clients,

10,000 yr.

(as estimated under section 5), is not required to register with respect to such client or clients.

(B) The registration thresholds established in this paragraph shall be adjusted on January 1 of each year divisible by 5 to the amount equal to $1,000 and $5,000, respectively, in constant 1995 dollars (rounded to the nearest $100).

On page 16, strike out lines 14 through 21 and insert in lieu thereof the following:

(3)(A) Any registrant whose total income (in the case of an organization described under subsection (b)(3)) or total expenses (in the case of an organization described under subsection (b)(4)) in connection with lobbying activities do not exceed—

(i) $1,000 in a semiannual period on behalf of a particular client, or

(ii) $5,000 in a semiannual period on behalf of all clients,

(as estimated under this section), or who does not make any lobbying contacts on behalf of a particular client, is deemed to be inactive during such period with respect to such client or clients and may comply with the reporting requirements of this section by notifying the Director, in such form as the Director may prescribe.

(B) The reporting thresholds established under this paragraph shall be adjusted on January 1 of each year divisible by 5 to the amount equal to $1,000 and $5,000, respectively, in constant 1995 dollars (rounded to the nearest $100).

incidental
if certain
10% —

omit
~~oldest~~,
doesn't
apply if
semi
annual
(income)
remuneration
exceeds
$125,000

THE WHITE HOUSE

WASHINGTON

April 29, 1993

MEMORANDUM FOR CIRCULATION

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

SUBJECT: LOBBYING DISCLOSURE ACT OF 1993

The Lobbying Disclosure Act of 1993, S.349, is scheduled for Senate floor action Tuesday, May 4. However, since Sen. Stevens of Alaska, is travelling to Russia next week, floor action will probably continue for most of the week to give him enough time to return and offer an amendment.

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

In all likelihood, Sen. Wellstone will offer an amendment to S.349 requiring lobbyists to disclose gift, travel and entertainment benefits to Members and staff. In light of Prime Time Live's expose' of all expense paid trips provided to Members and their spouses, shown last night, we recommend, if asked, that the Administration support the amendment.

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

We are discussing the possibility of including four largely noncontroversial amendments in Sen. Levin's manager's amendment.

---

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

Department of Justice, OMB, agencies and White House staff:

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

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

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

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

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

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

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

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

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

INDEPENDENT SECTOR

Give Five.

Robert M. Smucker
Senior Vice President
and Director, Government Relations

March 25, 1993

Melanne Verveer
Deputy Chief of Staff
Office of the First Lady
Old Executive Office Building
Suite 100
Washington, DC 20500

Dear Melanne:

Brian and I are very grateful for the time you gave to us today to discuss a number of issues important to charities. We are grateful for your offer to set up a meeting for Brian with Gene Sperling and we will also be back in touch with you very quickly regarding the Lobby Disclosure Act of 1993.

As we had discussed, of all the issues that are of concern to nonprofits clearly the cap and the floor on itemized deductions, including charitable deductions, are the most important. We of course are very hopeful that the cap on itemized deductions will not survive. It would cause a reduction of $1.8 billion annually in charitable giving according to research completed for INDEPENDENT SECTOR by Price Waterhouse.

We are also very concerned about the 3% floor. As I mentioned, dropping charitable out of the 3% floor would be very possible if Congress were to eliminate from the floor the adjusted gross income inflation adjustment for a year or two. I am enclosing related information and hope you will take that matter up with Gene Sperling. A carve out of charitable from the 3% floor would be viewed by IS and its Members as an enormously important move by the Clinton Administration to underscore its strong support for the independent sector.

Sincerely,

Robert M. Smucker

Encs.
cc: Brian O'Connell

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INDEPENDENT SECTOR

Give five.

Possible Means of Implementing the INDEPENDENT SECTOR Position Which Calls for Dropping the Charitable Tax Deduction From the 3% Floor

Research by Price Waterhouse, completed for INDEPENDENT SECTOR, concludes that excluding charitable contributions deductions from the 3% floor would result in a loss of federal revenue of $914 million over the 5 year period 1994-98.

Price Waterhouse research also indicated that eliminating the floor inflation adjustment (now at $108,000) for purposes of the 3% itemized deduction floor would result in a gain of $683 million over the same 5 year period if the adjustment were eliminated for the year 1994, only. If it were eliminated for 1994 and '95 the additional revenue pick up would be $1.275 billion over the five year period. If the inflation adjustment were eliminated for all five years, 1994-98, the pick up in revenue would be $2.006 billion.

Attachment A is a chart from Price Waterhouse providing more details.

Supporting arguments for dropping the charitable deduction from the 3% floor are included on Attachment B.

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Attachment B

INDEPENDENT SECTOR

THE THREE-PERCENT FLOOR ON ITEMIZED TAX DEDUCTIONS INCLUDING CHARITABLE DEDUCTIONS IS AN INEQUITABLE, BACK-DOOR INCOME TAX RATE INCREASE.

CONGRESS SHOULD REPEAL IT.

Congress included in its 1990 budget agreement a 3% floor on itemized tax deductions including charitable deductions for families with adjusted gross incomes over $100,000. The floor on charitable deductions was the fourth major undercutting by Congress of the very organizations to which government is transferring so much responsibility. Following is information on those cuts and why we are calling on Congress to repeal the 3% floor on charitable tax deductions.

Government Actions Over the Past Decade That Have Undercut Charities:

- Between 1982 and 1991 government's allocations to its nonprofit partners to fulfill such public services as job training and maternal and child health dropped by $37 billion, exclusive of medicare and medicaid.

- During that same period reductions for all federal human service programs dropped by $119 billion with expectation that essential services would be picked up by voluntary organizations.

- The 1986 Tax Act hurt the voluntary sector more than others because of the elimination of the charitable deduction for those who do not itemize their tax returns, changes in the treatment of gifts of appreciated property, and the direct correlation between lower tax rates and the size of many people's contributions. As we forewarned Congress and the Administration, in the years immediately following 1986, there was a 50% decline in the prior rate of growth of charitable giving growth.

- On top of the cuts in federal funding for charities, and the loss of charitable tax incentives in 1986, in the fall of 1990 Congress enacted the 3% floor. The average amount given to charity by individuals fell by 9% between 1989 and 1991. Clearly, the loss of charitable tax incentives contributed to this decline.

- Money freely given away to serve public purposes shouldn't be taxed. It makes no sense for Congress to tax contributions to groups that work for protection of the environment, health research, food programs for the homeless, schools and colleges, refugee crisis counseling, youth services, civil rights, hospitals, community and international development, the arts, housing for senior citizens, and the many other activities of nonprofit organizations and religious congregations that enrich our society and protect its people.

Problems With the 3% Floor and Why Congress Should Repeal It

- The passage of the 3% floor in 1990 violated the long-standing tradition of not taxing income voluntarily given to charitable organizations. To continue this unprecedented tax is an unwarranted violation of principles embodied in the tax code since 1917.

- The 3% floor places a special burden on charitable contributions. Deductions for state and local taxes, mortgage interest, and charitable contributions are affected by the floor. However, of the three, only the amount given to charitable organizations can be adjusted (that is, reduced) to make up for this increased federal tax.

- IS opposes any floor on charitable deductions because of the long held position that money contributed to serve public purposes should not be taxed. We stated very early in the Congressional debate on this issue that over time Congress almost always increases floors. Our fears appear to be very well grounded as evidenced by efforts by the Administration and some in Congress during the final 1990 budget debate, to increase the floor from 3% – to 4%, 5%, 8% or even 10%. Since 1990, the tax-writing committees have proposed, on six different occasions, to either extend the floor beyond its 1995 expiration date, or to make it permanent.

- Once a floor is established on a tax deduction, Congress is almost always inclined to increase it. The floor on the medical deduction is a case in point. Over the years, Congress increased the floor on the medical deduction to the point that now taxpayers can deduct only one half of what they could twenty years ago. There is every reason to believe that Congress will push for similar action on the floor on charitable deductions, as long as that floor remains in force.

- The three percent floor is a complicated, anti-tax simplification provision. A ten step process is required of the taxpayers to determine whether or not they are subject to the floor. (Attachment A)

- The floor is inequitable. If a taxpayer has no mortgage and doesn't live in a jurisdiction with state or local income taxes, the three percent floor has to be subtracted entirely from the taxpayer's charitable contributions deduction.

- The floor is inequitable, convoluted, tax policy. If Congress thinks it necessary in the national interest to increase taxes on those with incomes over $100,000 it would be fairer and more equitable for Congress to consider exchanging the 3% floor for an increase in marginal tax rates for that group of taxpayers.

FISCAL YEAR TAX RECEIPTS EFFECTS OF SEVERAL PROPOSALS AFFECTING THE 3% ITEMIZED DEDUCTION FLOOR 1/

($millions)

	Fiscal Years					
	1994	1995	1996	1997	1998	Total
Eliminate charitable contributions from 3% AGI floor	-82	-174	-195	-219	-244	-914
Eliminate AGI floor inflation adjustment for purposes of the 3% itemized deduction floor for:						
All years, 1994 – 1998	68	212	379	568	780	2006
1994 and 1995 only	68	212	298	316	334	1227
1994 only	68	140	150	159	168	683

March 9, 1993
Source: Price Waterhouse

1/ Assumes effective date of January 1, 1994. All revenue effects are measured against a baseline that includes an extension of the 3% itemized deduction floor (scheduled to expire at the end of 1995 under current law) through 1998.

TEN STEP PROCESS REQUIRED BY TAXPAYERS
TO DETERMINE WHETHER THEY ARE SUBJECT TO THE 3% FLOOR

TOTAL ITEMIZED DEDUCTIONS

Line 26: People with higher incomes may not be able to deduct all of their itemized deductions. If the amount on Form 1040, line 32, is more than $100,000 ($50,000 if married filing separately), use the worksheet on this page to figure the amount you may deduct.

Itemized deductions worksheet—line 26
(keep for your records)

1. Add the amounts on Schedule A, lines 4, 8, 12, 16, 17, 18, 24, and 25 ____ 1____
2. Add the amounts on Schedule A, lines 4, 11, and 17, plus any gambling losses included on line 25 ____ 2____
   Caution: Be sure your total gambling losses are clearly identified on the dotted line next to line 25.
3. Subtract line 2 from line 1. (If the result is zero, stop here; enter the amount from line 1 above on Schedule A, line 26.) ____ 3____
4. Multiply line 3 above by 80 percent (.80) ____ 4____
5. Enter the amount from Form 1040, line 32 ____ 5____
6. Enter $100,000 ($50,000 if married filing separately) ____ 6____
7. Subtract line 6 from line 5. (If the result is zero or less, stop here; enter the amount from line 1 above on Schedule A, line 26.) ____ 7____
8. Multiply line 7 above by 3 percent (.03) ____ 8____
9. Compare the amounts on lines 4 and 8 above. Enter the smaller of the two amounts here ____ 9____
10. Total itemized deductions. Subtract line 9 from 1. Enter the result here and on Schedule A, line 26 ____ 10____

INDEPENDENT SECTOR

MEMO

DATE: April 6, 1993

TO: Melanne Verveer

FROM: Bob Smucker , RS

SUBJECT: Information for the meeting with Gene Sperling

Many thanks for setting up the meeting with Gene Sperling. Frank Monahan, of the U. S. Catholic Conference; Jack Moskowitz, Chairman of the IS Tax Group, and I will be present.

There are three issues we would like to discuss. The most important is the 3% floor on itemized deductions, including charitable deductions. Enclosed is our position on that issue and suggestions regarding how the charitable deduction could be eliminated from the floor. (See Attachment A)

We will also discuss our gratitude for the Administration's support for making gifts of appreciated property permanent and fully deductible. That legislation is a high priority for INDEPENDENT SECTOR.

In addition, we will mention briefly our concern about the proposed cap on itemized deductions, including charitable deductions, which was dropped by the budget conferees. The impact of that cap on charitable deductions would have been significant, according to Price Waterhouse research, which is Attachment B.

Thanks again for setting up the meeting.

Enclosures

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FAX: (202) 457-0609

Attachment A

- The floor on charitable deductions was the fourth major undercutting by Congress over the past decade of the very organizations to which government is transferring so much responsibility. Following is related information.

  -- Between 1982 and 1991, government's allocations to its nonprofit partners to fulfill such public services as job training and maternal and child health, dropped by $37 billion, exclusive of medicare and medicaid.

  -- During that same period, reductions for all federal human service programs dropped by $119 billion, with the expectation that essential services would be picked up by voluntary organizations.

  -- The 1986 Tax Act hurt the voluntary sector more than others because of the elimination of the charitable deduction for those who do not itemize their tax returns, changes in the treatment of gifts of appreciated property, and the direct correlation between lower tax rates and the size of many people's contributions. As we forewarned Congress and the Administration, in the years immediately following 1986, there was a 50% decline in the prior rate of growth of charitable giving growth.

  -- On top of the cuts in federal funding for charities, and the loss of charitable tax incentives in 1986, in the fall of 1990 Congress enacted the 3% floor. The average amount given to charity by individuals fell by 9% between 1989 and 1991. Clearly, the loss of charitable tax incentives contributed to this decline.

Money freely given away to serve public purposes shouldn't be taxed. It makes no sense for Congress to tax contributions to groups whose service relates to protection of the environment, health, research, food programs for the homeless, schools and colleges, refugee crisis counseling, youth services, civil rights, hospitals, community and international development, the arts, housing for senior citizens, and the many other activities that enrich our society and protect its people.

April 6, 1993
(3%FLOOR.ATT)

Attachment A

INDEPENDENT SECTOR

A Possible Source of Federal Revenue to Replace Revenue Lost by Eliminating the Charitable Deduction from the 3% Floor on Tax Deductions.

Congress included in its 1990 budget agreement a 3% floor on itemized tax deductions, including charitable deductions for families with adjusted gross incomes over $100,000. Since that time, it has become increasingly evident that Congress will find it very difficult to permit the floor to expire in 1995, as schedule, because it raises about $2.4 billion annually in revenue. Therefore, INDEPENDENT SECTOR has concluded that to safeguard the long term viability of the charitable tax deduction, that deduction should be eliminated from the 3% floor.

Eliminating the charitable deduction from the 3% floor involves relatively little federal revenue. Of the $2.4 billion in federal revenue raised annually by the 3% floor, only about $200 million, or 8%, comes from the charitable deduction according to research conducted by Price Waterhouse for INDEPENDENT SECTOR.

Revenue that would be lost by eliminated the charitable deduction from the floor could be made up by eliminating, for one or two years, the inflation adjustment for those subject to the floor. Presently, those with adjusted gross incomes of $108,000 or more (the initial floor threshold of $100,000 has been adjusted for inflation to $108,000) are subject to the floor. Holding the inflation adjustment at $108,000 for one or two years would make up the needed federal revenue.

Attached is information from research from the Price Waterhouse. INDEPENDENT SECTOR's charitable deduction simulation model, which shows how eliminating the inflation adjustment for one or two years would make up the needed federal revenue.

4/6/93 (Pdeduct.src)

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SUCCESSOR TO THE COALITION OF NATIONAL VOLUNTARY ORGANIZATIONS AND THE NATIONAL COUNCIL ON PHILANTHROPY

Attachment A

FISCAL YEAR TAX RECEIPTS EFFECTS OF SEVERAL PROPOSALS AFFECTING THE 3% ITEMIZED DEDUCTION FLOOR 1/

($millions)

	Fiscal Years					
	1994	1995	1996	1997	1998	Total
Eliminate charitable contributions from 3% AGI floor	-82	-174	-195	-219	-244	-914
Eliminate AGI floor inflation adjustment for purposes of the 3% itemized deduction floor for:						
All years, 1994 - 1998	68	212	379	568	780	2006
1994 and 1995 only	68	212	298	316	334	1227
1994 only	68	140	150	159	168	683

March 9, 1993
Source: Price Waterhouse

1/ Assumes effective date of January 1, 1994. All revenue effects are measured against a baseline that includes an extension of the 3% itemized deduction floor (scheduled to expire at the end of 1995 under current law) through 1998.

Attachment B

EFFECT OF SEVERAL CHANGES TO THE CLINTON INDIVIDUAL TAX PROPOSALS ON THE 1994 LEVEL OF CHARITABLE CONTRIBUTIONS

	Change in 1994 Contributions Relative to Level under Clinton Proposal	Number of Contributors Affected
Limit value of itemized deductions to 31%:		2.2 million
With no carveout for contributions	-$1.8 billion	
With carveout for contributions:		
Contributions stacked first	-$0.1 billion	
Contributions stacked last	-$0.2 billion	

March 15, 1993
Source: Price Waterhouse

* Less than $100 million

Price Waterhouse

INDEPENDENT SECTOR

Give Five.

Robert M. Smucker
Senior Vice President and Director, Government Relations

April 13, 199

Melanne Verveer
Deputy Chief of Staff
Office of the First Lady
Old Executive Office Building
Suite 100
Washington, DC 20500

Dear Melanne:

In earlier conversations with you we mentioned our support of the President's call for increased funding for human services but also stated our concern over his position on several issues including the advocacy rights of nonprofits. We have been especially grateful for your interest and help in explaining our position on the Lobby Disclosure Act of 1993.

We were absolutely dumbfounded by the language in the President's April 8 Budget for Fiscal Year 1994 related to the appropriation for nonprofit mail, which states: "These reforms would discontinue abuses of the reduced postage rates subsidy by tightening eligibility requirements. Preferred rate status would be terminated or restricted for the following categories...(b) Third class nonprofit mail containing advertising or including political advocacy material, and education material for organizations that are not schools; ..." (emphasis added)

As you know so well, we fought successfully against the same proposal from the Bush Administration and are at a loss to understand why President Clinton is taking the same position, especially considering his campaign statement "...we will reexamine and clarify the lobbying restrictions placed on nonprofit organizations."

In addition, disallowance of preferred rates for mailing education materials for organizations that are not schools would increase costs enormously for groups such as the American Cancer Society, National Easter Seal Society, American Lung Association and Mothers Against Drunk Driving. In fact the provision would affect a vast majority of the 490,000 charities throughout the country.

On a separate but related issue we are equally concerned that the Clinton Justice Department argues in favor of a dangerously broad reading of the Rust Supreme Court decision, similar to that of the Bush Administration.

The brief maintains that Rust applies fully to the funding of the arts. The brief specifically agues that when government grants are involved, Rust authorizes "limiting the speech of persons working within the grant confines." We were gratified that shortly after he took office President Clinton repealed the "gag" rule because of its broad implications with respect to free speech and public participation. In our view, it is absolutely imperative that the Clinton Administration clarify, vie Executive Order and otherwise, that it supports extensive public participation as a matter of policy and it opposes broad Rust type restrictions.

As it now stands, our Members' concerns border on anger. A quick message on both issues from the White House could help a lot to cool things down.

Sincerely,

BS

Robert M. Smucker

Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 6

To Melanne Verveer	From Bob Smucker
Co.	Co.
Dept.	Phone #
Fax # 456-6244	Fax # 202/223-8100

INDEPENDENT SECTOR

MEMO

DATE: April 6, 1993

TO: Melanne Verveer

FROM: Bob Smucker RS

SUBJECT: Information for the meeting with Gene Sperling

Many thanks for setting up the meeting with Gene Sperling. Frank Monahan, of the U. S. Catholic Conference; Jack Moskowitz, Chairman of the IS Tax Group, and I will be present.

There are three issues we would like to discuss. The most important is the 3% floor on itemized deductions, including charitable deductions. Enclosed is our position on that issue and suggestions regarding how the charitable deduction could be eliminated from the floor. (See Attachment A)

We will also discuss our gratitude for the Administration's support for making gifts of appreciated property permanent and fully deductible. That legislation is a high priority for INDEPENDENT SECTOR.

In addition, we will mention briefly our concern about the proposed cap on itemized deductions, including charitable deductions, which was dropped by the budget conferees. The impact of that cap on charitable deductions would have been significant, according to Price Waterhouse research, which is Attachment B.

Thanks again for setting up the meeting.

Enclosures

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FAX: (202) 457-0609

Attachment A

INDEPENDENT SECTOR

Give five.

CONGRESS SHOULD ELIMINATE THE CHARITABLE DEDUCTION FROM THE THREE-PERCENT FLOOR ON ITEMIZED DEDUCTIONS

Congress included in its 1990 budget agreement a 3% floor on itemized tax deductions, including charitable deductions, for families with adjusted gross incomes over $100,000. Since that time, evidence has mounted that Congress probably does not intend to permit the floor to expire as scheduled in 1995. We are now convinced this is so because President Clinton has proposed making it permanent. That information, along with the fact that the charitable deduction should not have been included in the floor when it was enacted, has lead INDEPENDENT SECTOR to advocate that the charitable deduction be dropped from the 3% floor to avoid further erosion and possible ultimate loss of the charitable tax deduction. Following is related information.

- Eliminating charitable from the 3% floor involves relatively little federal revenue. Of the $2.4 billion in federal revenue raised annually by the 3% floor, only about $200 million, or 8%, comes from the charitable deduction according to Price Waterhouse research conducted for INDEPENDENT SECTOR.

- Once a floor is established on a tax deduction, Congress is almost always inclined to increase it. The floor on the medical deduction is a case in point. Over the years, Congress increased the floor on the medical deduction so much that now taxpayers can deduct only half of what they could twenty years ago. Moreover, since 1990, the tax writing committees of Congress have proposed, on six different occasions, either to extend the 3% floor beyond its 1995 expiration date, or to make it permanent.

- The 3% floor places a special burden on charitable contributions. Deductions for state and local taxes, mortgage interest, and charitable contributions are affected by the floor. However, of the three, only the amount given to charitable organizations can be adjusted (that is, reduced) to make up for this increased federal tax.

- The floor is inequitable. It affects taxpayers differently depending on where they live. If a taxpayer has no mortgage and doesn't live in a jurisdiction with state or local income taxes, the three percent floor has to be subtracted entirely from the taxpayer's charitable contributions deduction.

- An estimated $700 million can no longer be deducted by contributors to charity as a result of the 3% floor.

- The passage of the 3% floor in 1990 violated the long-standing tradition of not taxing income voluntarily given to charitable organizations. To continue this unprecedented tax is an unwarranted violation of principles embodied in the tax code since 1917.

- The floor on charitable deductions was the fourth major undercutting by Congress over the past decade of the very organizations to which government is transferring so much responsibility. Following is related information.

  -- Between 1982 and 1991, government's allocations to its nonprofit partners to fulfill such public services as job training and maternal and child health, dropped by $37 billion, exclusive of medicare and medicaid.

  -- During that same period, reductions for all federal human service programs dropped by $119 billion, with the expectation that essential services would be picked up by voluntary organizations.

  -- The 1986 Tax Act hurt the voluntary sector more than others because of the elimination of the charitable deduction for those who do not itemize their tax returns, changes in the treatment of gifts of appreciated property, and the direct correlation between lower tax rates and the size of many people's contributions. As we forewarned Congress and the Administration, in the years immediately following 1986, there was a 50% decline in the prior rate of growth of charitable giving growth.

  -- On top of the cuts in federal funding for charities, and the loss of charitable tax incentives in 1986, in the fall of 1990 Congress enacted the 3% floor. The average amount given to charity by individuals fell by 9% between 1989 and 1991. Clearly, the loss of charitable tax incentives contributed to this decline.

Money freely given away to serve public purposes shouldn't be taxed. It makes no sense for Congress to tax contributions to groups whose service relates to protection of the environment, health, research, food programs for the homeless, schools and colleges, refugee crisis counseling, youth services, civil rights, hospitals, community and international development, the arts, housing for senior citizens, and the many other activities that enrich our society and protect its people.

April 6, 1993
(3%FLOOR.APR)

INDEPENDENT SECTOR

Give five.

A Possible Source of Federal Revenue to Replace Revenue Lost by Eliminating the Charitable Deduction from the 3% Floor on Tax Deductions.

Congress included in its 1990 budget agreement a 3% floor on itemized tax deductions, including charitable deductions for families with adjusted gross incomes over $100,000. Since that time, it has become increasingly evident that Congress will find it very difficult to permit the floor to expire in 1995, as schedule, because it raises about $2.4 billion annually in revenue. Therefore, INDEPENDENT SECTOR has concluded that to safeguard the long term viability of the charitable tax deduction, that deduction should be eliminated from the 3% floor.

Eliminating the charitable deduction from the 3% floor involves relatively little federal revenue. Of the $2.4 billion in federal revenue raised annually by the 3% floor, only about $200 million, or 8%, comes from the charitable deduction according to research conducted by Price Waterhouse for INDEPENDENT SECTOR.

Revenue that would be lost by eliminated the charitable deduction from the floor could be made up by eliminating, for one or two years, the inflation adjustment for those subject to the floor. Presently, those with adjusted gross incomes of $108,000 or more (the initial floor threshold of $100,000 has been adjusted for inflation to $108,000) are subject to the floor. Holding the inflation adjustment at $108,000 for one or two years would make up the needed federal revenue.

Attached is information from research from the Price Waterhouse. INDEPENDENT SECTOR's charitable deduction simulation model, which shows how eliminating the inflation adjustment for one or two years would make up the needed federal revenue.

4/6/93
(Possible.Src)

Attachment A

FISCAL YEAR TAX RECEIPTS EFFECTS OF SEVERAL PROPOSALS AFFECTING THE 3% ITEMIZED DEDUCTION FLOOR 1/

(\$millions)

	Fiscal Years					
	1994	1995	1996	1997	1998	Total
Eliminate charitable contributions from 3% AGI floor	-82	-174	-195	-219	-244	-914
Eliminate AGI floor inflation adjustment for purposes of the 3% itemized deduction floor for:						
All years, 1994 - 1998	68	212	379	568	780	2006
1994 and 1995 only	68	212	298	316	334	1227
1994 only	68	140	150	159	168	683

March 9, 1993
Source: Price Waterhouse

1/ Assumes effective date of January 1, 1994. All revenue effects are measured against a baseline that includes an extension of the 3% itemized deduction floor (scheduled to expire at the end of 1995 under current law) through 1998.

Attachment B

EFFECT OF SEVERAL CHANGES TO THE CLINTON INDIVIDUAL TAX PROPOSALS ON THE 1994 LEVEL OF CHARITABLE CONTRIBUTIONS

	Change in 1994 Contributions Relative to Level under Clinton Proposal	Number of Contributors Affected
Limit value of itemized deductions to 31%:		2.2 million
With no carveout for contributions	-$1.8 billion	
With carveout for contributions:		
Contributions stacked first	-$0.1 billion	
Contributions stacked last	-$0.2 billion	

March 15, 1993
Source: Price Waterhouse

* Less than $100 million

AGENDA
FOR MEETING WITH
ALEXIS M. HERMAN
(Assistant to the President and Director of Public Liaison)

THE WHITE HOUSE
(MEET AT NORTHWEST GATE)
(456-2930)

MAY 20, 1993
3-4 PM

I. Gifts of Appreciated Property

   a. Gratitude for Administration support for proposal to extend and make permanent gifts of appreciated property.

II. OMB Postal Rates Proposal Related to Advocacy & Education

   a. Strong opposition to the OMB proposal to disallow third-class postal rates for advocacy and education activities of charities.

   b. Urge OMB Director Panetta to drop the proposal.

III. 3% Floor

   a. Strong disappointment with White House proposal to make the floor permanent, including charitable.

   b. Urge White House contact with Moynihan, Rostenkowski in support of dropping charitable from the floor.

IV. Lobby Disclosure Legislation

   a. Support for 10% time; $5,000 threshold reporting requirements.

   b. Continuing strong preference that charities be permitted to report lobbying based on IRS Regulations, not new set of Regs from Justice Department. Communicate that matter to Congressman Bryant.

V. Contact Person on Nonprofit Issues in the White House

   a. Contact person is needed in the White House to whom we can take issues such as those above.