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Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65 (1995).

ALWD 7th ed.
. Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65 (1995).

APA 7th ed.
(1995). Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65. Washington, D.C., Arnold & Porter.

Chicago 17th ed.
Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65. Washington, D.C., Arnold & Porter.

McGill Guide 9th ed.
Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65 (Washington, D.C.: Arnold & Porter., 1995)

AGLC 4th ed.
Lobbying Disclosure Act of 1995 109 Stat. 691 P.L. 104-65 (Arnold & Porter., 1995

MLA 9th ed.
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103D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
103–750

LOBBYING DISCLOSURE ACT OF 1994

SEPTEMBER 26, 1994.—Ordered to be printed

Mr. BRYANT, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 349]

CONFERENCE REPORT (H. REPT. 103–750)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 349), to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendments, insert the following:

TITLE I—LOBBYING DISCLOSURE

SECTION 101. SHORT TITLE.

This title may be cited as the "Lobbying Disclosure Act of 1994".

SEC. 102. FINDINGS.

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decision making process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance

as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

SEC. 103. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

(A) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

(B) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined in section 3132(a)(2) of title 5, United States Code;

(F) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code; and

(G) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) DIRECTOR.—The term "Director" means the Director of the Office of Lobbying Registration and Public Disclosure.

(6) EMPLOYEE.—The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(7) FOREIGN ENTITY.—The term "foreign entity" means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(8) GRASSROOTS LOBBYING COMMUNICATIONS.—The term "grassroots lobbying communications" means—

(A) any communication that attempts to influence a matter described in clause (i), (ii), (iii), or (iv) of section 103(10)(A) through an attempt to affect the opinions of the general public or any segment thereof;

(B) any communication between an organization and any bona fide member of such organization to directly encourage such member to make a communication to a covered executive branch official or a covered legislative branch official with regard to a matter described in clause (i), (ii), (iii), or (iv) of section 103(10)(A); and

(C) any 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 as provided in either subparagraph (A) or subparagraph (B).

(9) LOBBYING ACTIVITIES.—

(A) DEFINITION.—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, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others. Except as provided in subparagraph (B), lobbying activities also include grassroots lobbying communications to the extent that such communications are made in support of a lobbying contact. A communication in support of a lobbying contact is a lobbying activity even if the communication is excluded from the definition of "lobbying contact" under paragraph (10)(B).

(B) RELIGIOUS ORGANIZATIONS.—Lobbying activities do not include grassroots lobbying communications by churches, their integrated auxiliaries, conventions or associations of churches, and religious orders that are exempt from fil-

ing Federal income tax returns under paragraph (2)(A)(i) or (2)(A)(iii) of section 6033(a) of the Internal Revenue Code of 1986, unless such communications are made by another registrant or any person or entity required to be identified under section 104(b)(5).

(10) LOBBYING CONTACT.—

(A) DEFINITION.—The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is 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;

(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 this clause does not include communications that are made to any covered executive branch official—

(I) who is serving in a Senior Executive Service position described in paragraph (3)(E); or

(II) who is a member of the uniformed services whose pay grade is lower than O–9 under section 201 of title 37, United States Code,

in the agency responsible for taking such administrative or executive action; or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term "lobbying contact" does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is widely distributed to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

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

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to a written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

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

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a),

if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion; and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act; and

(II) the Securities and Exchange Commission,

relating to the regulatory responsibilities of such organization under that Act.

(11) LOBBYING FIRM.—The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(12) LOBBYIST.—The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client.

(13) MEDIA ORGANIZATION.—The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(14) MEMBER OF CONGRESS.—The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(15) ORGANIZATION.—The term "organization" means a person or entity other than an individual.

(16) PERSON OR ENTITY.—The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(17) PUBLIC OFFICIAL.—The term "public official" means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 104. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—

(1) GENERAL RULE.—No later than 30 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2) EMPLOYER FILING.—Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees

engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated under section 105) in the semiannual period described in section 105(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $5,000 toward the lobbying activities of the registrant in a semiannual period described in section 105(a); and

(B) participates significantly in the planning, supervision, or control of such lobbying activities;

(4) the name, address, principal place of business, amount of any contribution of more than $5,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) the name, address, and principal place of business of any person or entity retained by the registrant to conduct grassroots lobbying communications on behalf of the registrant or the client (other than an employee of the registrant or a person or entity that is separately registered under this title in connection with such representation);

(6) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(7) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE CONTACTS.—A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) TERMINATION OF REGISTRATION.—A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Director and terminate its registration.

SEC. 105. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—

(1) IN GENERAL.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 104, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(2) EXEMPTION.—

(A) GENERAL RULE.—Any registrant whose—

(i) total income for a particular client for matters that are related to lobbying activities on behalf of that client (in the case of a lobbying firm), does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of a registrant whose employees engage in lobbying activities on its own behalf) do not exceed and are not expected to exceed $5,000,

in a semiannual period (as estimated under paragraph (3) or (4) of subsection (b) or paragraph (4) of subsection (c), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director in such form as the Director may prescribe.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted as provided in section 104(a)(3)(B).

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans;

(B) a statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

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

(D) a description of the interest, if any, of any foreign entity identified under section 104(b)(4) in the specific issues listed under subparagraph (A); and

(E) a list of the specific issues on which any person or entity required to be identified under section 104(b)(5) has engaged in grassroots lobbying communications on behalf of the client;

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities;

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period;

(5) the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client; and

(6) a good faith estimate of the total expenses that the registrant and its employees incurred in connection with grassroots lobbying communications on behalf of the client (including any amount paid, in connection with such communications, to a person or entity required to be identified under section 104(b)(5)).

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

(1) $100,000 OR LESS.—Income or expenses of $100,000 or less shall be estimated in accordance with the following categories:

(A) $10,000 or less.

(B) More than $10,000 but not more than $20,000.
(C) More than $20,000 but not more than $50,000.
(D) More than $50,000 but not more than $100,000.

(2) MORE THAN $100,000 BUT NOT MORE THAN $500,000.—Income or expenses in excess of $100,000 but not more than $500,000 shall be estimated and rounded to the nearest $50,000.

(3) MORE THAN $500,000.—Income or expenses in excess of $500,000 shall be estimated and rounded to the nearest $100,000.

(4) ESTIMATES BASED ON TAX REPORTING SYSTEM.—In the case of any registrant that is required to report and does report lobbying expenditures as required by section 6033(b)(8) of the Internal Revenue Code of 1986, regulations prescribed under section 107 shall provide that the registrant may make a good faith estimate of applicable amounts that would be required to be disclosed under such section of the Internal Revenue Code of 1986 for the applicable semiannual period (by category of dollar value) to meet the requirements of subsections (b)(4) and (b)(6), if each time the registrant makes such an estimate, the registrant informs the Director that the registrant is making such an estimate.

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

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

(B) the expenses for services provided by an independent contractor of the registrant who is separately registered under this title.

(d) CONTACTS.—

(1) CONTACTS WITH COMMITTEES.—For purposes of subsection (b)(2), any contact with a member of a committee of Congress, an employee of a committee of Congress, or an employee of a member of a committee of Congress regarding a matter within the jurisdiction of such committee shall be considered to be a contact with the committee.

(2) CONTACTS WITH HOUSE OF CONGRESS.—For purposes of subsection (b)(2), any contact with a Member of Congress or an employee of a Member of Congress regarding a matter that is not within the jurisdiction of a committee of Congress of which that Member is a member shall be considered to be a contact with the House of Congress of that Member.

(3) CONTACTS WITH FEDERAL AGENCIES.—For purposes of subsection (b)(2), any contact with a covered executive branch official shall be considered to be a contact with the Federal agency that employs that official, except that a contact with a covered executive branch official who is detailed to another Federal agency or to the Congress shall be considered to be a contact with the Federal agency or with the committee of Congress or House of Congress to which the official is detailed.

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

SEC. 106. PROHIBITION ON GIFTS BY LOBBYISTS, LOBBYING FIRMS, AND AGENTS OF FOREIGN PRINCIPALS.

(a) IN GENERAL.—

(1) PROHIBITION.—No lobbyist or lobbying firm registered under this title and no agent of a foreign principal registered under the Foreign Agents Registration Act may provide a gift, directly or indirectly, to any covered legislative branch official.

(2) DEFINITION.—For purposes of this section—

(A) the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value and such term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and

(B) a gift to the spouse or dependent of a covered legislative branch official (or a gift to any other individual based on that individual's relationship with the covered legislative branch official) shall be considered a gift to the covered legislative branch official if it is given with the knowledge and acquiescence of the covered legislative branch official and is given because of the official position of the covered legislative branch official.

(b) GIFTS.—The prohibition in subsection (a) includes the following:

(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a covered legislative branch official.

(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a covered legislative branch official (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a covered legislative branch official or a covered executive branch official.

(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a covered legislative branch official.

(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of covered legislative branch officials.

(c) NOT GIFTS.—The following are not gifts subject to the prohibition in subsection (a):

(1) Anything for which the recipient pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) Food or refreshments of nominal value offered other than as part of a meal.

(4) Benefits resulting from the business, employment, or other outside activities of the spouse of a covered legislative branch official, if such benefits are customarily provided to others in similar circumstances.

(5) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(6) Informational materials that are sent to the office of a covered legislative branch official in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

(d) GIFTS GIVEN FOR A NONBUSINESS PURPOSE AND MOTIVATED BY FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—

(1) IN GENERAL.—A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the covered legislative branch official shall not be subject to the prohibition in subsection (a).

(2) NONBUSINESS PURPOSE.—A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

(A) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

(B) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

(3) FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

(A) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

(B) Whether the gift was purchased by the individual who gave the item.

(C) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other covered legislative branch officials.

SEC. 107. OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) ESTABLISHMENT AND DIRECTOR.—

(1) ESTABLISHMENT.—There is established an executive agency to be known as the Office of Lobbying Registration and Public Disclosure.

(2) DIRECTOR.—(A) The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Director shall be an individual who, by demonstrated ability, background, training, and experience, is qualified to carry out the functions of the position. The term of service of the Director shall be 5 years. The Director may be removed for cause.

(C) Section 5316 of title 5, United States Code, is amended by adding at the end the following: "Director of the Office of Lobbying Registration and Public Disclosure".

(b) ADMINISTRATIVE POWERS.—The Director may—

(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code, define their duties and responsibilities, and direct and supervise their activities;

(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such Federal agency as the Director determines appropriate, for which payment shall be made in advance or by reimbursement from funds of the Office in such amounts as may be agreed upon by the Director and the head of the agency providing such services, but the contract authority under this paragraph shall be effective for any fiscal year only to the extent that appropriations are available for that purpose;

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duties with the Office such personnel within the agency head's administrative jurisdiction as the Office may need for carrying out its functions under this title, with or without reimbursement;

(4) request agency heads to provide information needed by the Office, which information shall be supplied to the extent permitted by law;

(5) utilize, with their consent, the services and facilities of Federal agencies with or without reimbursement;

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible, for purposes of aiding or facilitating the work of the Office; and

(7) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) COOPERATION WITH OTHER GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of function among Government agencies, the Office may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this title as is practicable and consistent with law. The head of the General Services Administration and each department, agency, or establishment of the United States shall cooperate with the Office and, to the extent permitted by law, provide such information, services, personnel, and facilities as the Office may request for its assistance in the performance of its functions under this title.

(d) DUTIES.—The Director shall—

(1) after notice and a reasonable opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House of Representatives, and the Administrative Conference of the United States, prescribe such regulations, penalty guidelines, and forms as are necessary to carry out this title;

(2) provide guidance and assistance on the registration and reporting requirements of this title, including—

(A) providing information to all registrants at the time of registration about the obligations of registered lobbyists under this title, and

(B) issuing published decisions and advisory opinions;

(3) review the registrations and reports filed under this title and make such verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of the registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this title, including—

(A) a publicly available list of all registered lobbyists and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this title;

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

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

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

(C) are compatible with computer systems developed and maintained by the Secretary of the Senate and the Clerk of the House of Representatives;

(6) make copies of each registration and report filed under this title available to the public, upon the payment of reasonable fees, not to exceed the cost of such copies, as determined by the Director, in written and electronic formats, as soon as practicable after the date on which such registration or report is received;

(7) preserve the originals or accurate reproduction of—

(A) registrations filed under this title for a period that ends not less than 3 years after the termination of the registration under section 104(d); and

(B) reports filed under this title for a period that ends not less than 3 years after the date on which the report is received;

(8) maintain a computer record of—

(A) the information contained in registrations for a period that ends not less than 5 years after the termination of the registration under section 104(d); and

(B) the information contained in reports filed under this title for a period that ends not less than 5 years after the date on which the reports are received;

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

(10) make information compiled and summarized under paragraph (9) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(11) provide, by computer telecommunication or other transmittal in a form accessible by computer, to the Secretary of the Senate and the Clerk of the House of Representatives copies of all registrations and reports received under sections 104 and 105 and all compilations, cross-indexes, and summaries of such registrations and reports, as soon as practicable (but not later than 3 working days) after such material is received or created;

(12) make available to the public a list of all persons whom the Director determines, under section 109 (after exhaustion of all appeals under section 111) to have committed a major or minor violation of this title and submit such list to the Congress as part of the report provided for under paragraph (13);

(13) make available to the public upon request and transmit to the President, the Secretary of the Senate, the Clerk of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on the Judiciary of the House of Representatives a report, not later than March 31 of each year, describing the activities of the Office and the implementation of this title, including—

(A) a financial statement for the preceding fiscal year;

(B) a summary of the registrations and reports filed with the Office with respect to the preceding calendar year;

(C) a summary of the registrations and reports filed on behalf of foreign entities with respect to the preceding calendar year; and

(D) recommendations for such legislative or other action as the Director considers appropriate; and

(14) study the appropriateness of the definition of "public official" under section 103(17) and make recommendations for any change in such definition in the first report filed pursuant to paragraph (13).

SEC. 108. INITIAL PROCEDURE FOR ALLEGED VIOLATIONS.

(a) ALLEGATION OF A VIOLATION.—Whenever the Office of Lobbying Registration and Public Disclosure has reason to believe that a person or entity may be in violation of the requirements of this title, the Director shall notify the person or entity in writing of the nature of the alleged violation and provide an opportunity for the person or entity to respond in writing to the allegation within 30 days after the notification is sent or such longer period as the Director may determine appropriate in the circumstances.

(b) INITIAL DETERMINATION.—

(1) IN GENERAL.—If the person or entity responds within the period described in the notification under subsection (a), the Director shall—

(A) issue a written determination that the person or entity has not violated this title if the person or entity provides adequate information or explanation to make such determination; or

(B) make a formal request for information under subsection (c) or a notification under section 109(a), if the information or explanation provided is not adequate to make a determination under subparagraph (A).

(2) WRITTEN DECISION.—If the Director makes a determination under paragraph (1)(A), the Director shall issue a public written decision in accordance with section 110.

(c) FORMAL REQUEST FOR INFORMATION.—If a person or entity fails to respond in writing within the period described in the notification under subsection (a) or the response is not adequate to determine whether such person or entity has violated this title, the Director may make a formal request for specific additional written information (subject to applicable privileges) that is reasonably necessary for the Director to make such determination. Each such request shall be structured to minimize any burden imposed, consistent with the need to determine whether the person or entity is in compliance with this title, and shall—

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

(2) describe the class or classes of material to be produced pursuant to the request with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the person or entity may assemble and make available for inspection and copying or reproduction the material so requested.

SEC. 109. DETERMINATIONS OF VIOLATIONS.

(a) NOTIFICATION AND HEARING.—If the information provided to the Director under section 108 indicates that a person or entity may have violated this title, the Director shall—

(1) notify the person or entity in writing of this finding and, if appropriate, a proposed penalty assessment and provide such person or entity with an opportunity to respond in writing within 30 days after the notice is sent; and

(2) if requested in writing by that person or entity within that 30-day period, afford the person or entity an opportunity for a hearing on the record under the provisions of section 554 of title 5, United States Code.

(b) DETERMINATION.—Upon the receipt of a written response under subsection (a)(1) when no hearing under subsection (a)(2) is requested, upon the completion of a hearing requested under subsection (a)(2), or upon the expiration of 30 days in a case in which no such written response is received, the Director shall review the information received under section 108 and this section (including evidence presented at any such hearing) and make a final determination whether there was a violation and a final determination

of the penalty, if any. If no written response was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final order not subject to appeal.

(c) WRITTEN DECISION.—

(1) DETERMINATION OF VIOLATION.—If the Director makes a final determination under subsection (b) that there was a violation, the Director shall issue a written decision in accordance with section 110—

(A) directing the person or entity to correct the violation; and

(B) assessing a civil monetary penalty—

(i) in the case of a minor violation, which shall be no more than $10,000, depending on the extent and gravity of the violation;

(ii) in the case of a major violation, which shall be more than $10,000, but no more than $200,000, depending on the extent and gravity of the violation;

(iii) in the case of a late registration or filing, which shall be $200 for each week by which the registration or filing was late, unless the Director determines that the failure to timely register or file constitutes a major violation (as defined under subsection (e)(2)) in which case the amount shall be as prescribed by clause (ii); or

(iv) in the case of a failure to provide information requested by the Director pursuant to section 108(c), which shall be no more than $10,000, depending on the extent and gravity of the violation, except that no penalty shall be assessed if the Director determines that the violation was the result of a good faith dispute over the validity or appropriate scope of a request for information.

(2) DETERMINATION OF NO VIOLATION OR INSUFFICIENT EVIDENCE.—If the Director determines that no violation occurred or there was not sufficient evidence that a violation occurred, the Director shall issue a written decision in accordance with section 110.

(d) CIVIL INJUNCTIVE RELIEF.—If a person or entity fails to comply with a directive to correct a violation under subsection (c), the Director shall refer the case to the Attorney General to seek civil injunctive relief in the appropriate court of the United States to compel such person or entity to comply with such directive.

(e) PENALTY ASSESSMENTS.—

(1) GENERAL RULE.—No penalty shall be assessed under this section unless the Director finds that the person or entity subject to the penalty knew or should have known that such person or entity was in violation of this title. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the violation, whether the violation was voluntarily admitted and corrected, the extent to which the person or entity may have profited from the violation, the ability of the

person or entity to pay, and such other matters as justice may require.

(2) REGULATIONS.—Regulations prescribed by the Director under section 107 shall define major and minor violations. Major violations shall be defined to include a failure to register and any other violation that is extensive or repeated, if the person or entity who failed to register or committed such other violation—

(A) had actual knowledge that the conduct constituted a violation;

(B) acted in deliberate ignorance of the provisions of this title or regulations related to the conduct constituting a violation; or

(C) acted in reckless disregard of the provisions of this title or regulations related to the conduct constituting a violation.

(f) LIMITATION.—No proceeding shall be initiated under section 108 or this section unless the Director notifies the person or entity who is to be the subject of the proceeding of the alleged violation within 3 years after the date on which the alleged violation occurred.

SEC. 110. DISCLOSURE OF INFORMATION; WRITTEN DECISIONS.

(a) DISCLOSURE OF INFORMATION.—Information provided to the Director pursuant to sections 108 and 109 shall not be made available to the public without the consent of the person or entity providing the information, except to the extent that such information may be included in—

(1) a new or amended report or registration filed under this title; or

(2) a written decision issued by the Director under this section.

(b) WRITTEN DECISIONS.—All written decisions issued by the Director under sections 108 and 109 shall be made available to the public. The Director may provide for the publication of a written decision if the Director determines that publication would provide useful guidance. Before making a written decision public, the Director—

(1) shall delete information that would identify a person or entity who was alleged to have violated this title if—

(A) there was insufficient evidence to determine that the person or entity violated this title or the Director found that person or entity did not violate this title, and

(B) the person or entity so requests; and

(2) shall delete information that would identify any other person or entity (other than a person or entity who was found to have violated this title), if the Director determines that such person or entity could reasonably be expected to be injured by the disclosure of such information.

SEC. 111. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Director under section 109 shall become final 60 days after the date on which the Director provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person or entity adversely affected by a written decision issued by the Director under section 109 may appeal such decision, except as provided under section 109(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Director provides notice of the Director's decision and by simultaneously sending a copy of such notice of appeal to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this title may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Director or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

SEC. 112. RULES OF CONSTRUCTION.

(a) CONSTITUTIONAL RIGHTS.—Nothing in this title shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the First Amendment to the Constitution.

(b) PROHIBITION OF ACTIVITIES.—Nothing in this title shall be construed to prohibit, or to authorize the Director or any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this title.

(c) AUDIT AND INVESTIGATIONS.—Nothing in this title shall be construed to grant general audit or investigative authority to the Director.

SEC. 113. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

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

(1) in section 1—

(A) by striking subsection (j);

(B) in subsection (o) by striking "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting "any activity that the person engaging in believes will, or that the person intends to, in any way influence";

(C) in subsection (p) by striking the semicolon and inserting a period; and

(D) by striking subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking "established agency proceedings, whether formal or informal." and inserting "judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 3 (22 U.S.C. 613) by adding at the end the following:

"(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) if the agent is required to register and does register under the Lobbying Disclosure Act of 1994 in connection with the agent's representation of such person or entity.";

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

(A) by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal";

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

(A) in the matter preceding clause (i), by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "(i) in the form of prints, or" and all that follows through the end of the subsection and inserting "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking "political propaganda" and inserting "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a) by striking "and all statements concerning the distribution of political propaganda";

(B) in subsection (b) by striking ", and one copy of every item of political propaganda"; and

(C) in subsection (c) by striking "copies of political propaganda,";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2) by striking "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking subsection (d); and

(9) in section 11 (22 U.S.C. 621) by striking ", including the nature, sources, and content of political propaganda disseminated or distributed".

SEC. 114. AMENDMENTS TO THE BYRD AMENDMENT.

(a) REVISED CERTIFICATION REQUIREMENTS.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3) by striking all that follows "loan shall contain" and inserting "the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) REMOVAL OF OBSOLETE REPORTING REQUIREMENT.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 115. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

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

SEC. 116. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 103 of the Lobbying Disclosure Act of 1994)" after "an agent for a foreign principal".

(b) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Section 219(a) of title 18, United States Code, is amended (1) by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1994 in connection with the representation of a foreign entity, as defined in section 103(7) of that Act" after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938", and (2) by striking out ", as amended,".

(c) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 103(7) of the Lobbying Disclosure Act of 1994)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

SEC. 117. SEVERABILITY.

If any provision of this title, or the application thereof, is held invalid, the validity of the remainder of this title and the applica-

tion of such provision to other persons and circumstances shall not be affected thereby.

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years 1995, 1996, 1997, 1998, and 1999 such sums as may be necessary to carry out this title.

SEC. 119. IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.

(a) ORAL LOBBYING CONTACTS.—Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this title and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 104(b)(4) that has a direct interest in the outcome of the lobbying activity.

(b) WRITTEN LOBBYING CONTACTS.—Any person or entity registered under this title that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this title, and state whether the person making the lobbying contact is registered on behalf of that client under section 104; and

(2) identify any other foreign entity identified pursuant to section 104(b)(4) that has a direct interest in the outcome of the lobbying activity.

(c) IDENTIFICATION AS COVERED OFFICIAL.—Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official.

SEC. 120. TRANSITIONAL FILING REQUIREMENT.

(a) SIMULTANEOUS FILING.—Subject to subsection (b), each registrant shall transmit simultaneously to the Secretary of the Senate and the Clerk of the House of Representatives an identical copy of each registration and report required to be filed under this title.

(b) SUNSET PROVISION.—The simultaneous filing requirement under subsection (a) shall be effective until such time as the Director, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, determines that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 107(b)(11).

(c) IMPLEMENTATION.—The Director, the Secretary of the Senate, and the Clerk of the House of Representatives shall take such actions as necessary to ensure that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required

under section 107(b)(11) on the effective date of this title, or as soon thereafter as reasonably practicable.

SEC. 121. EFFECTIVE DATES AND INTERIM RULES.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall take effect January 1, 1996.

(b) EFFECTIVE DATE OF GIFT PROHIBITION.—Section 106 shall take effect on January 3, 1995. Beginning on that date, and for the remainder of calendar year 1995, such section shall apply to any gift provided by a lobbyist or an agent of a foreign principal registered under the Federal Regulation of Lobbying Act or the Foreign Agents Registration Act, including any person registered under such Acts as of July 1, 1994, or thereafter.

(c) ESTABLISHMENT OF OFFICE.—Sections 107 and 118 shall take effect on the date of enactment of this Act.

(d) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 113, 114, 115, and 116 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(e) REGULATIONS.—Proposed regulations required to implement this title shall be published for public comment no later than 270 days after the date of the enactment of this Act. No later than 1 year after the date of the enactment of this Act, final regulations required to implement this title shall be published.

(f) PHASE-IN PERIOD.—No penalty shall be assessed by the Director under section 109(e) for a violation of this title, other than for a violation of section 106, which occurs during the first semiannual reporting period under section 105 after the effective date prescribed by subsection (a).

(g) INTERIM RULES.—

(1) REPORTING RULE.—A person or entity that is required to account for lobbying expenditures and does account for lobbying expenditures pursuant to section 162(e) of the Internal Revenue Code of 1986 may make a good faith estimate (by category of dollar value) of the amount that would not be deductible pursuant to that section for the applicable semiannual period to meet the requirements of sections 104(a)(3), 105(a)(2), and 105(b)(4), if the person or entity—

(A) makes such an estimate to meet the requirements of each such section of this title for a given calendar year; and

(B) informs the Director that the person or entity is making such an estimate in any registration or report including such an estimate.

(2) DE MINIMIS RULE.—In determining whether its employees are lobbyists under section 103(12)—

(A) a person or entity that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986, and makes an estimate of expenses pursuant to section 105(c)(4) of this title to meet the requirements of sections 104(a)(3), 105(a)(2), 105(b)(4), and 105(b)(6) of this title, shall, in lieu of using the definition of "lobbying activities" in section 103(9) of this title, consider as lobbying activities—

(i) activities that are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986;

(ii) activities described in section 4911(d)(2)(C) of the Internal Revenue Code of 1986; and

(iii) lobbying activities (as defined in section 103(9)) that are in support of a lobbying contact with a covered executive branch official; and

(B) a person or entity that is required to account for lobbying expenditures and does account for lobbying expenditures pursuant to section 162(e) of the Internal Revenue Code of 1986, and makes an estimate of expenses pursuant to paragraph (1) of this subsection, shall, in lieu of using the definition of "lobbying activities" in section 103(9), consider as lobbying activities—

(i) activities that are influencing legislation within the meaning of section 162(e)(1)(A) of the Internal Revenue Code of 1986;

(ii) activities that are attempts to influence the general public, as described in section 162(e)(1)(C) of the Internal Revenue Code of 1986; and

(iii) lobbying activities (as defined in section 103(9)) that are in support of a lobbying contact with a covered executive branch official.

(3) STUDY.—Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under paragraph (1) of this section and section 105(c)(4) and report to the Congress—

(A) the differences between the definition of "lobbying activities" in section 103(9) and the definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of the Internal Revenue Code of 1986, as each are implemented by regulations;

(B) the impact that any such differences may have on filing and reporting under this title pursuant to this subsection; and

(C) any changes to this title or to the appropriate sections of the Internal Revenue Code of 1986 that the Comptroller General may recommend to harmonize the definitions.

(4) SUNSET PERIOD.—This subsection shall cease to be effective on December 31, 1998.

(h) INTERIM DIRECTOR.—Within 30 days after the date of the enactment of this Act, the President shall designate an interim Director of the Office of Lobbying Registration and Public Disclosure, who shall serve at the pleasure of the President until a Director of

such Office has been nominated by the President and confirmed by the Senate. The interim Director may not promulgate final regulations pursuant to section 107(d) or initiate procedures for alleged violations pursuant to sections 108 and 109.

TITLE II—CONGRESSIONAL GIFT RULES

SEC. 201. AMENDMENTS TO SENATE RULES.

Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No Member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a registered lobbyist, a lobbying firm, or an agent of a foreign principal in violation of the Lobbying Disclosure Act of 1994.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this Rule, no Member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this Rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(d)(1) Except as prohibited by paragraph 1, a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in

attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (c)(3) or the close personal friendship exception in section 106(d) of the Lobbying Disclosure Act of 1994 unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(f)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.".

SEC. 202. AMENDMENTS TO HOUSE RULES.

Clause 4 of rule XLIII of the Rules of the House of Representatives is amended read as follows:

"4. (a) No Member, officer, or employee of the House of Representatives shall accept a gift, knowing that such gift is provided directly or indirectly by a registered lobbyist, a lobbying firm, or an agent of a foreign principal in violation of the Lobbying Disclosure Act of 1994.

"(b) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph (a) and except as provided in this Rule, no Member, officer, or employee of the House of Representatives shall knowingly accept a gift from any other person.

"(c)(1) For the purpose of this clause, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(d) The restrictions in paragraph (b) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Committee on Standards of Official Conduct shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Committee on Standards of Official Conduct.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Standards of Official Conduct.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to paragraph (e).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in exceptional circumstances, a waiver is granted by the Committee on Standards of Official Conduct.

"(e)(1) Except as prohibited by paragraph (a), a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the House of Representatives.

"(3) Except as prohibited by paragraph (a), a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except

that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(f) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in paragraph (d)(3) or the close personal friendship exception in section 106(d) of the Lobbying Disclosure Act of 1994 unless the Committee on Standards of Official Conduct issues a written determination that one of such exceptions applies.

"(g)(1) The Committee on Standards of Official Conduct is authorized to adjust the dollar amount referred to in paragraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Committee on Standards of Official Conduct shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"(h)(1)(A) Except as prohibited by paragraph (a), a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this paragraph, if the Member, officer, or employee—

"(i) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

"(B) For purposes of clause (A), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(2) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

"(A) the name of the employee;

"(B) the name of the person who will make the reimbursement;

"(C) the time, place, and purpose of the travel; and

"(D) a determination that the travel is in connection with the duties of the employee as an officeholder and would not cre-

ate the appearance that the employee is using public office for private gain.

"(3) Each disclosure made under subparagraph (1)(A) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(F) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(4) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(A) includes reasonable expenses that are necessary for travel—

"(i) for a period not exceeding 4 days including travel time within the United States or 7 days in addition to travel time outside the United States; and

"(ii) within 24 hours before or after participation in an event in the United States or within 48 hours before or after participation in an event outside the United States,

unless approved in advance by the Committee on Standards of Official Conduct;

"(B) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (A);

"(C) does not include expenditures for recreational activities or entertainment other than that provided to all attendees as an integral part of the event; and

"(D) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the officer or employee works) that the attendance of the spouse or child is appropriate tc assist in the representation of the House of Representatives.

"(5) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of re-

imbursement filed pursuant to subparagraph (1) as soon as possible after they are received.".

SEC. 203. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT.—Section 102(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 102, App. 6) is amended by adding at the end thereof the following: "Reimbursements accepted by a Federal agency pursuant to section 1353 of title 31, United States Code, or deemed accepted by the Senate or the House of Representatives pursuant to Rule XXXV of the Standing Rules of the Senate or clause 4 of Rule XLIII of the Rules of the House of Representatives shall be reported as required by such statute or rule and need not be reported under this section.".

(b) REPEAL OF OBSOLETE PROVISION.—Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31–2) is repealed.

(c) SENATE PROVISIONS.—

(1) AUTHORITY OF THE COMMITTEE ON RULES AND ADMINISTRATION.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

(2) FOOD, REFRESHMENTS, AND ENTERTAINMENT.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the Senate or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Rules and Administration shall be the rules in effect on the day before the effective date of this title.

(d) HOUSE PROVISION.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the House of Representatives or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Standards of Official Conduct shall be the rules in effect on the day before the effective date of this title.

SEC. 204. EXERCISE OF CONGRESSIONAL RULEMAKING POWERS.

Sections 201, 202, 203(c), and 203(d) of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and pursuant to section 7353(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (insofar as they relate to that House) at any time and in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on May 31, 1995.

And the House agree to the same.

JOHN BRYANT,
DAN GLICKMAN,
MIKE SYNAR,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DANIEL K. AKAKA,
BILL COHEN,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 349), to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The House amendment to the text of S. 349 struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate recedes from its disagreement to the amendment of the House with a further amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, House amendment, and substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I.—LOBBYING DISCLOSURE

Section 101. Short Title.—Section 1 of the Senate bill and the House amendment contain the short title of the bill. Section 101 of the conference amendment would provide that Title I of the bill may be referred to as the "Lobbying Disclosure Act of 1994".

Section 102. Findings.—Section 2 of the Senate bill contains a statement of findings and purpose for the legislation. Section 2 of the House amendment would retain the statement of findings from the Senate bill, but delete the statement of purpose. The conference amendment would adopt the House provision.

Section 103. Definitions.—Section 3 of the Senate bill and the House amendment contain definitions of key terms used in the bill. Section 103 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 103(1): Definition of "Agency".—Section 3(1) of the Senate bill and the House amendment would define the term "agency"

to have the meaning given that term in Title 5 of the U.S. Code. The conferees agree to this provision.

Section 103(2): Definition of "Client".—The Senate bill would define the term "client" to mean any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. The House amendment contains a similar definition, which differs from the Senate bill in that it would: (1) expressly include entities such as State and local governments in the definition of the term; (2) include a person who pays a lobbyist to conduct lobbying activities on behalf of another person; and (3) provide that, in the case where a coalition or association employs or retains a lobbyist, the client is (a) the coalition or association if the lobbying is conducted on behalf of the membership generally and paid for out of general dues or assessments; and (b) an individual member or members, if the lobbying is financed separately by such member or members.

On the first issue, the conference amendment would expressly include State and local governments in the definition of clients. This would be done through a new definition of the term "person or entity" in section 103(16), which would include State and local governments. This means that when a State or local government employs or retains an outside lobbyist or lobbying firm, the outside lobbyist or lobbying firm would be required to register. Officers or employees of a State or local government who engage in lobbying activities on behalf of that government in their official capacity would remain exempt from coverage under the public official exception in section 103(10)(B)(1) of the bill.

On the second issue, the conference amendment would adopt the Senate approach, with a clarifying amendment. As under the Senate bill, a separate provision (section 104(b)(5)) would require registrants to disclose the identity of a third party who pays for lobbying activities on behalf of the client, but such a third party would not be included in the definition of the term "client." Unlike the Senate bill, this disclosure requirement would apply to both in-house lobbyists and lobbying firms.

On the third issue, the conference amendment would adopt the House approach, with an amendment clarifying that the client would be a member or members of a coalition or association if the lobbying is conducted on behalf of and paid for by just a few members. This provision should prevent the use of coalitions or associations as fronts for lobbying that is really conducted on behalf of and paid for by just a few of their members.

Section 103(3): Definition of "Covered Executive Branch Official".—The Senate bill would define the term "covered executive branch official" to include, the President and Vice President; any officer or employee in the Executive Office of the President; any officer or employee serving in an Executive level position or in the Senior Executive Service; any member of the uniformed services as a pay grade of O–7 or higher; and any Schedule C employee. The House amendment contains a similar definition, which differs from the Senate bill in that it would: (1) include the President-elect and the Vice President-elect in the definition; (2) include "any individual functioning in the capacity of officer or employee on an unpaid

basis"; and (3) clarify that the term "covered legislative branch official" would include all Schedule C employees.

The conference amendment would adopt a compromise approach. On the first point the conference amendment would not include the President-elect or the Vice President-elect in the definition.

On the second point, the conference amendment would include in the definition of covered executive branch officials any officer or employee in the Executive Office of the President and any other individual functioning in the capacity of such an officer or employee. This term would include a special government employee and any other individual (including the spouse of an elected official) who is retained, designated, appointed or employed to perform duties like those of an employee without compensation.

On the third point, the conference amendment would adopt a compromise approach. The phrase "position of a confidential, policy-determining, policy-making, or policy-advocating character" includes Schedule C employees. Positions described in section 7511(b)(2) of title 5 include, among others, Schedule C employees. It is the intent of the conferees that all Schedule C employees be included in the definition of "covered executive branch officials".

Section 103(4): Definition of "Covered Legislative Branch Official".—The Senate bill would define the term "covered legislative branch official" to include Members, officers and employees of the House, the Senate, and joint Committees of the House and Senate. The House amendment contains a similar definition, which differed from the Senate bill in that it would include: (1) Members-elect of the Congress; (2) employees of any working group or caucus organized to provide legislative services to Members of Congress; and (3) "any individual funtioning in the capacity of an employee" of Congress on an unpaid basis.

The conference amendment would adopt a compromise approach. On the first point the conference amendment would not include Members-elect in the definition.

On the second point, the conference amendment would adopt the House language covering employees of a working group or caucus. This provision would cover any employee of an official congressional working group or caucus whose salary is paid out of legislative branch funds.

On the third point, the conference amendment would include in the definition of covered legislative branch officials any employee of the Congress and any other individual functioning in the capacity of such an employee. The term would include any individual (including the spouse of an elected official) who is retained, designated, appointed or employed to perform duties like those of an employee with or without compensation.

Section 103(5): Definition of "Director".—The Senate bill and the House amendment would define the term "director" to mean the Director of the Office of Lobbying Registration and Public Disclosure. The conferees agree to this provision.

Section 103(6): Definition of "Employee".—The Senate bill would define the term employee broadly to include any individual who is an officer, employee, partner, director, or proprietor of a person or entity. The definition would expressly exclude independent

contractors and other agents who are not regular employees and volunteers who receive no financial compensation. The House amendment differs from the Senate bill in that: (1) it would include persons acting in the capacity of government employees in the definition of the term; and (2) it would not include any reference to "other agents who are not regular employees".

On the first point, the conference amendment would adopt the Senate language. The conferees determined that the House language is unnecessary because persons acting in the capacity of government employees would be specifically included in the definitions of covered legislative branch officials and covered executive branch officials under sections 103(3) and 103(4).

On the second point, the conference amendment would adopt the House language. The conferees concluded that the phrase "agents who are not regular employees" is unnecessary, as such individuals would be covered by the exclusion of independent contractors.

Section 103(7): Definition of "Foreign Entity".—The Senate bill would define a foreign entity in the same terms currently used in the Foreign Agents Registration Act to define the term "foreign principal". The House amendment would directly cross-reference the definition of "foreign principal" in the Foreign Agents Registration Act, without repeating the language of that Act. The conference amendment would adopt the House language.

Section 103(8): Definition of "Grass Roots Lobbying Communications".—The Senate bill refers to grass roots lobbying communications "as defined under section 4911(d)(1)(A) and (d)(3) of the Internal Revenue Code of 1986 and the regulations implementing such provisions", but contains no separate definition of the term. The House amendment would define "grass roots lobbying communications" to include communications that attempt to influence legislation through communications with the general public; communications between organizations and their members with an intent to influence such members to contact public officials on matters of public policy; and communications between organizations and their members with an intent to encourage such members to urge other persons to attempt to influence legislation.

The conference amendment would adopt the House definition of the term "grass roots lobbying communications" with a further amendment to clarify that the definition includes communications intended to influence executive branch officials and executive branch actions in addition to communications intended to influence legislative branch officials and legislative branch actions. Nothing in the conference amendment would require a person or entity to register as a lobbyist because the person or entity engages in grass roots lobbying communications, unless the person or entity also makes one or more lobbying contacts and otherwise qualifies as a "lobbyist".

The term "bona fide member" of an organization, as used in this paragraph, would have the same scope that term is given in the related contexts covered by section 4911 of the Internal Revenue Code (see C.F.R. 56.4911–5(f)) and by the Federal Election Campaign Act (see 11 C.F.R. 114.1(e)). In particular, the term is intended to include any person who: (a) pays dues or makes more

than a nominal contribution to the organization; (b) contributes more than a nominal amount of time to the organization; (c) is one of a limited number of "honorary" or "life" members of an organization; or (d) is a member of another organization that is an affiliate of the organization (for example, members of the local chapter of an organization may be considered to be members of the national or international organization of which the local organization is a chapter).

Section 103(9): Definition of "Lobbying Activities".—The Senate bill would define the term "lobbying activities" to mean 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. The Senate bill would expressly include grass roots lobbying communications in the definition of lobbying activities. The House amendment contained a similar definition, which differed from the Senate bill in that it would: (1) clarify that research and other background work is included in the definition of lobbying activities only if intended at the time of its preparation for use in a lobbying contact; (2) provide a specific list of activities which are excluded from the definition of "lobbying contact", but may be lobbying activities, if performed in support of a lobbying contact; and (3) provide that grass roots lobbying communications by churches, their integrated auxiliaries, conventions or associations of churches, and religious orders are exempt from the definition of lobbying activities.

On the first issue, the conference amendment would adopt the House language, clarifying that research and other background work is included in the definition of lobbying activities only if it is intended for use in a lobbying contact at the time of its preparation.

On the second issue, the House amendment would provide a specific list of activities which are excluded from the definition of a "lobbying contact", but would be a lobbying activity, if performed in support of a lobbying contact. It is the intent of the conferees that such communications be considered to be lobbying activities. For this reason, the conference amendment would provide that communications in support of a lobbying contact are included as lobbying activities, even if those communications are of a type expressly excluded from the definition of "lobbying contact". As provided in the House bill, such communications would include the following, if they are made in support of a lobbying contact:

A communication made in a speech, article, publication or other material which is widely distributed to the public or through the media (section 103(10)(b)(iii));

A request for a meeting, a request for the status of an action, and any other similar administrative request (section 103(10)(b)(v));

Congressional testimony (section 103(10)(b)(vii)); and

Information provided in writing in response to a written request for specific information (section 103(10)(b)(viii)).

Other types of communications that are expressly excluded from the definition of lobbying contacts would also be lobbying activities if they are made in support of a lobbying contact. For exam-

ple, if a person makes a lobbying contact by seeking private relief legislation on behalf of an individual, communications in support of that effort would be considered to be lobbying activities, even if they otherwise would be excluded from the definition of lobbying contacts because they pertain to benefits for an individual.

On the third issue, the conference amendment would adopt the House language with a further amendment clarifying that grass roots lobbying communications of churches are included in the definition of lobbying activities if they are conducted by an outside lobbyist, outside lobbying firm, or other outside firm making grass roots lobbying communications on behalf of a church. The exemption for grass roots lobbying communications is intended to avoid excessive regulatory entanglement in the internal affairs of churches; for this reason, the exemption would extend only to officers and employees of such churches and not to outside lobbyists who may be engaged to represent the interests of churches.

The exemption for grass roots lobbying communications would apply only to churches, their integrated auxiliaries, conventions or associations of churches, and religious orders that are exempt from filing a Federal income tax return under paragraph 2(a)(i) or 2(a)(iii) of section 6033(a) of the Internal Revenue Code of 1986. The conferees intend for "integrated auxiliaries" to include "internally supported church organizations", as more fully described in the Internal Revenue Service's Rev. Proc. 86–23, 1986–1 C.B. 564.

Section 103(10): Definition of "Lobbying Contact".—The Senate bill would define the term "lobbying contact" to mean any oral or written communication with a covered legislative or executive branch official that is made on behalf of a client with regard to matters of public policy. The Senate bill contains sixteen listed exclusions from this definition.

The House amendment contains a similar definition, which differs from the Senate bill in that it would: (1) expressly include in the definition of lobbying contact lobbying on the nomination or confirmation of a person subject to confirmation by the Senate; (2) modify the exclusion for contacts that are disclosed under the Foreign Agents Registration Act; (3) clarify the exclusion for a communication made with regard to judicial proceedings and filings that are specifically required by statute or regulation to be maintained or conducted on a confidential basis; (4) clarify that a contact with regard to private relief legislation is considered to be a lobbying contact; (5) use a different formulation to refer to contacts on routine administrative matters that are exempt from the definition of lobbying contacts; and (6) modify the Senate provision excluding "a formal petition for agency action" from the definition of lobbying contacts, by dropping the word "formal".

On the first point, the conference amendment would adopt the House language expressly including lobbying on nominations and confirmations.

On the second point, the conference amendment would adopt the House language modifying the exclusion for contacts on behalf of foreign governments or political parties that are disclosed under FARA.

On the third point, the conference amendment would also adopt the House language. The conferees do not intend to interfere

with the conduct of judicial proceedings or civil or criminal law enforcement matters, or to require the disclosure of communications regarding filings or proceedings that are required by law or regulation to be conducted by the government on a confidential basis. For this reason, the conference amendment would not require disclosure of communications regarding such proceedings, filings, or matters (whether made by an attorney or by anybody else), as long as there is no effort to lobby officials outside the agency responsible for handling the matter. While this exemption would cover many agency proceedings in which private parties are customarily represented by attorneys, it would not cover all such proceedings (only those which are required by law or regulation to be conducted by the government on a confidential basis), nor would it make any distinction between attorneys and non-attorneys.

The conferees intend that the Office of Lobbying Registration and Public Disclosure should develop and include in implementing regulations a list of specific types of filings and proceedings that fall into this category, with specific citation to the statute or regulation that requires confidentiality. In developing this list, the Director should consider the views of the American Bar Association and other interested parties.

On the fourth point, the conference amendment would adopt a compromise approach, providing that a contact with regard to private relief legislation is considered to be a lobbying contact, unless such contact is made to the individual's own elected Members of Congress or employees who work under such Members' direct supervision. For the purpose of this provision, an individual's elected Members of Congress would be the two Senators representing the State and the Member of the House of Representatives representing the congressional district in which the individual resides.

On the fifth point, the conference amendment would exclude from the definition of lobbying contacts requests for meetings, requests for status of an action, or other similar administrative requests, as long as there is no attempt to influence a covered official. The phrase "other similar administrative requests", as used in this paragraph, means routine requests, such as requests for transcripts or hearing records, requests for copies of forms or regulations, requests for a room number or the location of an event, and requests for the time and place of a public meeting.

On the sixth point, the conference amendment would adopt a compromise approach, excluding from the definition of lobbying contacts a petition for agency action that is made in writing and required to be a matter of public record pursuant to established agency procedures. Under this provision, applicable agency procedures must require both that the petition be made in writing and that it be a matter of public record. For the purpose of this provision, a document would be "a matter of public record" if it is maintained in a public docket or other files open to the public. A document would not be "a matter of public record" merely because it may be subject to disclosure under the Freedom of Information Act.

In addition, the House amendment contains two exclusions to the definition of lobbying contact which are not included in the Senate bill:

An exclusion for a contact by a church, its integrated auxiliaries, a convention or association of churches, or a religious order, if the contact constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion; and

An exclusion for contacts between officials of self-regulatory organizations and the responsible Federal regulatory agency, which would apply to contacts relating to the regulatory responsibilities of the organization.

The conference amendment would adopt the House provisions, with minor modifications to clarify the language of the House amendment. The conferees understand that the two new exclusions adopted from the House bill would apply only to contacts by officers and employees; neither exclusion would apply to contacts that may be made by outside lobbyists or lobbying firms. Outside lobbyists and lobbying firms would be required to register in connection with such contacts in the same manner as they register in connection with contacts that are made on behalf of other clients.

The exclusion for certain communications by a church, its integrated auxiliary, or a convention or association of churches would apply only to such an organization that is exempt from filing a Federal income tax return under paragraph 2(a)(i) of section 6033(a) of the Internal Revenue Code of 1986. The conferees intend for an "integrated auxiliary" to include "internally supported church organizations" as more fully described in the Internal Revenue Service's Rev. Proc. 86–23, 1986–1 C.B. 564. The exclusion for certain communications by a religious order would apply only to a religious order that is exempt from filing a Federal income tax return under paragraph 2(a)(iii) of section 6033(a) of the Internal Revenue Code of 1986.

The self-regulatory organizations covered by the second exemption would be those recognized by the Securities and Exchange Commission. These are the American Stock Exchange, the Boston Stock Exchange, the Chicago Board Options Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange, the Philadelphia Stock Exchange, the National Association of Securities Dealers, the Boston Stock Exchange Clearing Corporation, the Delta Government Options Corporation, the Depository Trust Corporation, the Government Securities Clearing Corporation, the Intermarket Clearing Corporation, the International Securities Clearing Corporation, the MBS Clearing Corporation, the Midwest Clearing Corporation, the Midwest Securities Trust Corporation, the National Securities Clearing Corporation, the Pacific Clearing Corporation, the Pacific Securities Trust Company, the Participants Trust Company, the Philadelphia Depository Trust Company, the Stock Clearing Corporation of Philadelphia, and the Municipal Securities Rulemaking Board.

Under the conference amendment, these organizations would not be required to register in connection with communications made by their employees to officials of the Security and Exchange Commission, with respect to the self-regulatory duties and responsibilities of the organizations. Communications with other agencies or with Congress, and communications with the SEC with regard

to other matters, would require registration to the extent that the other provisions of the bill apply.

Section 103(11): Definition of "Lobbying Firm".—The Senate bill would place certain requirements on a registrant that engages in lobbying activities on behalf of a client other than the registrant. The House amendment contains similar requirements. However, neither the Senate bill nor the House amendment would provide a name for such an entity. The conference amendment would clarify the bill by defining such an entity as a "lobbying firm". Under the conference amendment, any entity that has one or more employees who are lobbyists on behalf of a client other than that person or entity would be a lobbying firm. A self-employed individual who is a lobbyist would also be a lobbying firm.

Section 103(12): Definition of "Lobbyist".—The Senate bill would define the term "lobbyist" to mean any individual who is employed or retained by a client for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of the services provided by such individual to the client. The Senate report explains that, as a rule of thumb, "any individual whose lobbying activities constitute less than 10% of the services he or she provides to his or her client is engaged only in incidental and insignificant lobbying activities and would not be covered by the bill." The House amendment would expressly exclude any individual whose lobbying activities "constitute less than 10 percent of the time engaged in the services provided by such individual to that client."

The conference amendment would adopt the House language, with a further amendment (in section 120(f)), providing that organizations reporting lobbying expenditures to the Internal Revenue Code under 26 U.S.C. may use the accounting systems set up to comply with IRS regulations to determine whether the 10% threshold has been met. Under this provision, the 10% test would work on a client-by-client basis. The percentage to be used in the test would be the amount of time an individual spends on lobbying activities for a client, as a percentage of the total amount of time the individual spends working for that same client.

The conferees intend that the 10% test, like the other standards in the bill, may be met on the basis of a good faith estimate. However, potential registrants should use the best information available to them in making a determination whether the 10% test is met. For example, individuals who are required to keep time records for tax, billing, or other purposes should rely upon those records in making their estimates.

The conferees note that this definition would cover only lobbying contacts that are "made on behalf of a client". It would not cover lobbying contacts of an individual acting on the individual's own behalf. For this reason, the bill would have no applicability to an employee of an educational institution, such as a faculty member, who tries to influence government decisions by expressing his or her own personal opinions about an issue of public policy. Like any other individual who chooses to express his or her own personal views to government officials, the faculty member would not be included in the definition of the term "lobbyist". The only case

in which faculty lobbying would be covered is where the faculty member acts on behalf of the institution—for example, by seeking to obtain increased federal funding or other special treatment for the institution.

Section 103(13): Definition of "Media Organization".—The Senate report states that the term "media organization" was intended to have the same meaning as the term "representative of the news media" in the Administrative Procedure Act. However, the Senate bill does not contain a definition of the term. The House amendment includes such a definition as a subparagraph in the definition of the term "lobbying contract". The conference amendment would adopt the House definition as a free-standing provision.

Section 103(14): Definition of "Member of Congress".—The House amendment includes a definition of the term "Member of Congress" as a subparagraph in the definition of the term "covered legislative branch official". The conference amendment would adopt the House definition as a free-standing provision.

Section 103(15): Definition of "Organization".—The Senate bill would define the term "organization" to mean any corporation (excluding a government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations, excluding Federal, State and local governments. The House amendment contains a similar definition, but would not exclude government corporations or Federal, State and local governments. Neither the Senate bill nor the House amendment contains a definition of the term "person or entity".

The conference amendment would clarify the language of both the Senate bill and the House amendment by including a new definition of the term "person or entity". The term "organization" would be defined as any person or entity other than an individual.

Section 103(16): Definition of "Person or Entity".—Section 103(16) would add a new definition of the term "person or entity". The term person or entity would mean any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government. The inclusion of State and local governments in the definition in the term "person or entity" would mean that although public officials acting in their official capacity are exempt from registration as lobbyists, State and local governments may be clients. Consequently, outside lobbyists and lobbying firms representing such entities would be required to register in connection with such representation.

Section 103(17): Definition of "Public Official". The Senate bill would define the term "public official" to mean any elected or appointed official who is a regular employee of a Federal, State or local unit of government (other than a State college or university), an organization of State or local elected officials, an Indian tribe, a national or State political party, or a national, regional or local unit of a foreign government. The House amendment contains a similar definition, which differs from the Senate bill in that it would expressly exclude employees of government-sponsored enterprises and public utilities that provide gas, electricity, water, or communications from the definition of public officials. The term "public official" would also include an elected or appointed official

who is a regular employee of a public entity formed by two or more federal, state, or local units of government (other than units of government described in clause (i), (ii), (iii), (iv), or (v) of paragraph (A)).

The conference amendment would adopt the House language, with a further amendment clarifying that employees of state student loan secondary markets and guaranty agencies, like employees of GSE's and public utilities, are excluded from the definition of public officials and would be required to register in connection with their lobbying activities (if they meet the other tests in the bill).

Section 104. Registration of Lobbyists.—Section 4 of the Senate bill and the House amendment contain requirements for the registration of lobbyists. Section 104 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 104(a): Requirement to Register.—Section 4(a) of the Senate bill would require lobbyists to register within 30 days after making a lobbying contact or agreeing to make a lobbying contact. (A separate provision of the Senate bill, section 4(c)(2), would require organizations employing lobbyists to register on behalf of the lobbyists that they employ). This section would exclude from the registration requirement any organization whose total lobbying expenses did not exceed $1,000 in a semi-annual period on behalf of a particular client, or $5,000 in a semi-annual period on behalf of all clients, and would provide for inflation adjustments to be made to these dollar amounts every five years.

Section 4(a) of the House amendment contains a similar registration requirement, which differs from the Senate bill, in that it would—(1) move the requirement for organizations to register on behalf of all of their employees who are lobbyists to section 4(a)(2); (2) set the threshold for registration at $2,500 in a semi-annual period; and (3) require inflation adjustments to be made every four years, instead of every five years, as in the Senate bill.

On the first issue, the conference amendment would adopt the House approach, with a clarifying amendment. Under the conference amendment, any organization having one or more employees who are lobbyists must file a single registration for each client, covering all lobbying contacts made by the registrant and its employees on behalf of the client. The conferees believe that the bill is clarified by placing the requirement that organizations register on behalf of all of their individual employees who are lobbyists in the registration paragraph itself.

On the second issue, the conference amendment would take the Senate approach, with the threshold set at $5,000 for organizations that lobby on their own behalf and at $2,500 per client for lobbying firms. As in both the Senate bill and the House amendment, these dollar thresholds would apply to the lobbying income or expenditures (as applicable) or an entire organization—not to the income or expenditures of an individual lobbyist for the organization.

On the third issue, the conference amendment would provide for inflation adjustments to be made every four years and rounded to the nearest $500.

Section 104(b): Contents of Registration.—Section 4(b) of the Senate bill would require that each registration include:

The name, address, and principal place of business of the registrant and the client;

The name, address, and principal place of business of any organization which is similar to a client, in that it—(a) contributes more than $5,000 toward the lobbying activities; (b) significantly participates in the planning, supervision or control of such lobbying activities; and (c) has a direct financial interest in the outcome of the lobbying activities;

The name, address, and principal place of business of any foreign entity that has an interest in the outcome of the lobbying activity;

A statement of the general issue areas in which the registrant expects to engage in lobbying activities; and

The name of each employee whom the registrant expects to act as a lobbyist on behalf of the client (and any covered legislative branch or covered executive branch position in which any such lobbyist has served in the previous two years).

The House amendment contains similar requirements for the contents of a registration, but differs from the Senate bill in that: (1) the requirement to identify organizations that are similar to clients would be modified to (a) include organizations that have agreed to contribute to the lobbying activities, but have not yet done so; and (b) delete the requirement that the organization have a direct financial interest in the outcome of the lobbying activities; (2) a new requirement would be added to disclose the dollar amount of any contribution in excess of $5,000 to the lobbying activities of the registrant by a foreign entity; and (3) a new requirement would be added to disclose the name, address, and principal place of business of any outside firm retained by the registrant to conduct grass roots lobbying activities.

On the first issue, the conference amendment would strike a compromise between the Senate bill and the House amendment. Under the conference amendment, as under the Senate bill, only organizations that have actually contributed to lobbying activities (and not those that have merely agreed to do so) would be disclosed. As in the case of disclosure of lobbying income and expenses (see page 22 of the Senate report), this language would give the Director flexibility to determine whether a contribution is made at the time an obligation is incurred (rather than the time a payment is made), to the extent necessary to preclude evasion.

Like the House amendment, the conference amendment would drop the requirement that the organization have a direct financial interest in the outcome of the lobbying activities. This change would place coalitions and associations of non-profit entities (which are unlikely to have a direct financial stake in the outcome of their lobbying activities) on the same footing as coalitions and associations of for-profit entities (which are more likely to have such a stake).

In many situations, organizational members of a trade association, a labor federation, or another multi-tiered membership organization may be represented on the organization's governing board. So long as the board consists of a large number of members, none

of whom has a disproportionate vote in the decisions of the board, such representation, standing alone, would not be enough to bring the constituent organization within the "significant participation" test in paragraph (3)(B).

On the second issue, the conference amendment would adopt the House approach. For the purpose of disclosing contributions in excess of $5,000 under this section, a contribution by a foreign entity to a client that is not specifically earmarked or designated for the lobbying activities of the registrant should be allocated in a reasonable manner to the lobbying and non-lobbying activities of the client. The IRS regulations on allocation of costs to lobbying activities for the purposes of section 162(e) of the Internal Revenue Code (26 C.F.R. 1.162–28) provide useful guidance as to how such allocations may be made. A person or entity that is required to make such an allocation for IRS purposes may reasonably allocate contributions from foreign entities in the same manner and the same percentages for the purposes of this requirement.

The conference amendment would also modify the paragraph on disclosure of foreign entities to require the disclosure of any foreign entity that directly or indirectly, in whole or in major part plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3). For the purposes of this paragraph, any foreign entity that provides more than 20% of the funding of a client would be considered to have financed or subsidized the activities of the client in whole or in major part for the purposes of this paragraph.

On the third issue, the conference amendment would adopt the House language. This provision would require the disclosure of any outside firm that is retained by a registrant to conduct grass roots lobbying activities.

Section 104(c): Guidelines for Registration.—Section 4(c) of the Senate bill contains (a) a rule on multiple clients, which would require that a registrant representing more than one client register separately in connection with each client represented and (b) a rule on multiple lobbyists, which would require that each organization having one or more employees who are lobbyists file a single registration on behalf of all such employees. The House amendment contains similar provisions and adds a rule on multiple contacts, which provides that a registrant whose employees make multiple lobbying contacts on behalf of the same client would be required to file a single registration in connection with such contacts.

The conference amendment would delete from section 104(c) the rule on multiple lobbyists, as a similar provision is included in section 104(a) of the conference amendment. The conference amendment would adopt the House provision on multiple lobbying contacts, with a further amendment clarifying the language of the provision.

Section 104(d): Termination of Registration.—The Senate bill contains no provision for the termination of a registration. The House bill contains a provision, section 4(d), which would require registrants that do not anticipate engaging in additional lobbying activities to notify the Office of Lobbying Registration and Public Disclosure that they have terminated their lobbying activities. The conference amendment would authorize (but not require) a reg-

istrant to terminate its registration by notifying the Office, if the registrant is no longer employed or retained by the client to conduct lobbying activities and does not anticipate any additional lobbying activities for the client in the future.

Section 105. Reports by Registered Lobbyists.—Section 5 of the Senate bill and the House amendment provide for reports by registered lobbyists. Section 105 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 105(a): Reporting Requirement.—Section 5(a) of the Senate bill would require registrants to file semi-annual reports on their lobbying activities in January and July of each year in which they are registered. A separate provision in section 105(c)(3) would exempt from this requirement any registrant whose total lobbying expenses do not exceed $1,000 in a semi-annual period on behalf of a particular client, or $5,000 in a semi-annual period on behalf of all clients. The House amendment contains a similar provision, which differs from the Senate bill, in that the House amendment would: (1) expressly provide for a separate report to be filed for each client of the registrant; and (2) set the threshold for reporting at $2,500 per client.

On the first issue, the conference amendment would adopt the House language requiring a separate report for each client of the registrant. The conferees understand that there may be some cases in which several members of a coalition or association jointly sponsor a single lobbying effort. In this case, the client, as defined in section 103(2) of the bill, would be those members, collectively. Because section 103(2) uses the singular "client" to refer to these members, only a single report (naming as the client those members of the coalition or association on whose behalf the lobbying is conducted) would be required.

On the second issue, the conference amendment would take the Senate approach, with the threshold set at $5,000 for registrants that lobby on their own behalf and at $2,500 per client for lobbying firms.

Section 105(b): Contents of Reports.—Section 5(b) of the Senate bill would require that each lobbying report contain—

The name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

For each general issue area in which the registrant engaged in lobbying activities: (a) a list of specific issues on which the registrant engaged in significant lobbying activities; (b) a statement of the Houses and committees of Congress and the Federal agencies contacted by the registrant's lobbyists; (c) a list of the employees of the registrant who acted as lobbyists during the period; and (d) a description of the interest, if any, of any foreign affiliate or contributor in each of the specific issues on which the registrant lobbied;

In the case of a lobbying firm, a good faith estimate, by category of dollar value, of all income from the client, other than income for matters that are clearly unrelated to lobbying activities;

In the case of in-house lobbying, a good faith estimate, by category of dollar value, of all expenses incurred by the registrant and its employees in connection with lobbying activities; and

In the case of a lobbying firm, the name, address and principal place of business of any person other than the client who paid the registrant to lobby on behalf of the client.

Section 5(b) of the House amendment contains similar reporting requirements, which differ from the Senate bill, in that the House amendment would: (1) require a list of all specific issues upon which the registrant engaged in lobbying activities; (2) require the identification of the specific issues on which an outside firm retained by the registrant engaged in grass roots lobbying communications on behalf of the client; (3) require a separate good faith estimate, by category of dollar value, of the total expenses that the registrant and its employees incurred in connection with grass roots lobbying communications (including any amounts paid to an outside firm retained to make such communications); and (4) delete the requirement in the Senate bill to identify any person other than the client who paid for the lobbying activities (while adding such persons to the definition of "client").

On the first issue, the conference amendment would strike a compromise between the Senate bill and the House amendment. The conference amendment, like the House amendment, would require a listing of all specific issues that were the subject of lobbying activities; unlike the House amendment, however, the conference amendment would limit this list to issues on which lobbyists employed by the registrant engaged in lobbying activities. Under this compromise approach, lobbyists would be required to identify all of the issues on which they lobbied, but registrants would not be required to list the issues on which employees other than lobbyists may have engaged in incidental lobbying activities.

On the second and third issues, the conference amendment would adopt the House language, requiring the disclosure of grass roots lobbying issues and expenses.

On the fourth issue, the conference amendment would adopt the Senate language with a clarifying amendment. Under the conference amendment, all registrants (regardless whether they are lobbying firms or use in-house lobbyists) would be required to identify any person other than the client who paid the registrant to lobby on behalf of the client.

Section 105(c): Estimates of Income or Expenses.—Section 5(d) of the Senate bill would establish the categories of dollar value for estimates of income or expenses; authorize registrants that are required to report lobbying expenses to the Internal Revenue Service under section 6033 of the Internal Revenue Code to report the same amounts to the Office of Lobbying Registration and Public Disclosure; and provide that estimates of lobbying income or expenses need not include the value of volunteer services or expenses provided by independent contractors who are separately registered and separately report such income. Section 5(c) of the House bill contains similar provisions, with minor clarifying changes. The conference amendment would adopt the language of the House amendment, with a further amendment to clarify the treatment of reg-

istrants that report lobbying expenses to the IRS under section 6033 and minor modifications to the categories of dollar value to be used for estimates of income or expenses.

As explained in the Senate report (pp. 33–34), the purpose of disclosing lobbying expenditures is to establish the scope of a lobbying effort. For this reason, as long as a registrant has a reasonable estimating system in place and complies in good faith with that system, the requirements of this provision would be met.

For example, an organization could make a good faith estimate of the total expenses that the organization and its employees incurred in connection with lobbying activities during a filing period if: (1) the organization has its professional employees make a regular periodic estimate of the percentage of time the employee spends on lobbying activities and uses that percentage to compute both its salary costs and general overhead costs (e.g., rent, utilities, salaries of nonprofessional support staff, etc.) assignable to lobbying activities; and then (2) adds to that figure an estimate of the direct costs attributable to lobbying activities (i.e., third-party reimbursements for media, printing, postage, expense reimbursements and other costs directly associated with the organization's lobbying activities). In other words, where an organization follows such a system and where the professional staff's estimates are done carefully and in good faith, the only major obligation imposed by this reporting requirement will be the preparation of those estimates.

Similarly, an organization could make a "good faith estimate" of the total expenses that the organization and its employees incurred in connection with grassroots lobbying communications if (1) the organization has its professional employees make a regular periodic estimate of the percentage of time the employee spends on grassroots lobbying communications and uses that percentage to compute both its salary costs and the general overhead costs assignable to such activity; and (2) then adds to that figure an estimate of the direct costs attributable to grass roots lobbying communications (e.g., third-party payments for media, printing, mailings, postage and other costs directly associated with grass roots lobbying communications).

Some concern has been expressed about over-reporting being considered a violation of the Lobbying Disclosure Act. The conferees agree that unintentional over-reporting, resulting from a good faith effort to report all lobbying contacts and expenses related to lobbying activities, should not be considered a violation of the Act.

Section 105(d): Contacts.—Section 5(e) of the Senate bill would provide that any contact with a member or employee of a Congressional Committee regarding a matter within the jurisdiction of the Committee is considered a contact with the Committee. Section 5(d) of the House bill contains similar language, with additional provisions which would define contacts with a House of Congress and contacts with Federal agencies.

The conference amendment would adopt the language of the House amendment with a further amendment clarifying that a contact with a covered executive branch official who has been detailed to another Federal agency or to the Congress is considered to be a contact with the Federal agency, committee of Congress, or

House of Congress to which the official has been detailed and not a contact with the home agency of the official. An executive branch official who is detailed to the Congress, but is not a covered executive branch official would be included in the definition of the term covered legislative branch employee (because he or she functions in the capacity of an employee of the Congress). A contact with that person would be a contact with the committee or House of Congress to which the individual has been detailed.

The language in the conference amendment would pertain to details of executive branch employees under sections 3341 through 3349 of Title 5; section 112 of Title 3; section 202(f) of the Legislative Reorganization Act of 1946; section 81a of Title 2; and other statutes or rules that authorize details from one agency or branch to another agency or branch of the federal government.

Section 106. Prohibition on Gifts by Lobbyists, Lobbying Firms, and Agents of Foreign Principals.—Section 5(c) of the Senate bill would require lobbyists to disclose certain gifts to covered legislative branch officials. Section 6 of the House amendment would prohibit most gifts from lobbyists and their clients to covered legislative branch officials and require the disclosure of other gifts. In addition, a separate bill passed by the Senate, S. 1935, would prohibit members of Congress and congressional staff from accepting most gifts from lobbyists or from any other sources.

The conference amendment would adopt a compromise approach to these proposals. Section 106 of the conference amendment would prohibit virtually all gifts from lobbyists to covered legislative branch officials. A separate title of the bill would amend the Standing Rules of the Senate and the Rules of the House of Representatives to address gifts from all sources.

Under section 106 of the conference amendment, registered lobbyists, lobbying firms, and foreign agents would be prohibited from providing any gift, directly or indirectly, to a covered legislative branch official, with certain narrow exceptions.

A gift to a spouse or dependent of a covered legislative branch official (or a gift to any other individual based on that individual's relationship with the covered legislative branch official), would be considered a gift to the covered legislative branch official if it is given, with the knowledge and acquiescence of the official, because of the official position of the recipient. A gift (such as a wedding gift) which is given jointly to both a covered legislative branch official and the spouse of that covered legislative branch official and that would not be appropriate under the circumstances to give to only one of the two recipients by an individual who has a family relationship or close personal friendship with only one of the two recipients would be considered a gift to the recipient who has the relationship with the donor. Such a gift may be accepted under the family relationship or close personal friendship exception if the gift otherwise meets the requirements of that provision.

This section also would prohibit—

Anything provided by a registered lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of the lobbyist or foreign agent;

Anything provided by a registered lobbyist, firm, or foreign agent to an entity that is maintained or controlled by a covered legislative branch official;

A charitable contribution made by a registered lobbyist, lobbying firm, or foreign agent on the basis of a designation, recommendation, or other specification by a covered legislative branch official;

A contribution or other payment by a registered lobbyist, lobbying firm, or foreign agent to a legal expense fund established for the benefit of a covered legislative branch official or a covered executive branch official; and

A charitable contribution made by a registered lobbyist, lobbying firm, or foreign agent in lieu of an honorarium to a covered legislative branch official.

A contribution or expenditure by a registered lobbyist, lobbying firm, or foreign agent relating to a congressional conference, retreat, or similar event.

The following exceptions would apply: Anything for which the recipient pays the market value or does not use and promptly returns, any lawful campaign contribution or attendance at a political fundraising event; food or refreshment of nominal value offered other than as part of a meal; benefits resulting from outside business, employment or other activities of the spouse of the covered legislative branch official; pension and other benefits resulting from former employment; and informational materials that are sent to the office of a covered legislative branch official.

Finally, a gift from an individual would be permitted under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the covered legislative branch official. The conference amendment would establish narrow limits on the circumstances under which gifts of this type would be permitted.

Section 107. The Office of Lobbying Registration and Public Disclosure.—Section 6 of the Senate bill and section 7 of the House amendment would establish a new Office of Lobbying Registration and Public Disclosure and set forth the duties of the Office. Section 107 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 107(a): Establishment.—Section 6(a) of the Senate bill would establish an Office of Lobbying Registration and Public Disclosure in the Department of Justice, to be headed by a Director. Section 7(a) of the House amendment contains a similar provision, which differs from the Senate bill, in that it would: (1) provide for the Office of Lobbying Registration and Public Disclosure to be an independent agency in the executive branch, rather than an office within the Justice Department; (2) provide a fixed, five-year term for the Director; and (3) authorize the Director to appoint officers and employees and to contract with the General Services Administration and other Federal agencies for financial and administrative services.

On the first point, the conference amendment would adopt the House approach and provides for the Office of Lobbying Registration and Public Disclosure to be an independent agency in the exec-

utive branch. Congressional oversight of this office would be assured by limiting the authorization of appropriations to five years (as provided in section 118 of the bill).

On the second point the conference amendment would provide a fixed, five-year term for the Director.

On the third point, the conference amendment would adopt the House provision and would: (a) provide additional administrative powers for the Director; and (b) require other agencies to cooperate with the Director by supplying needed personnel and services (subject to reimbursement).

Section 107(b): Duties.—Section 6(b) of the Senate bill would establish the duties of the Director of the Office of Lobbying Registration and Public Disclosure. Section 7(b) of the House amendment contains a similar provision, which differs from the Senate bill in that it would: (1) provide for the payment of reasonable copying fees for registrations and reports made available to the public; (2) require that copies and electronic records of registrations be retained in perpetuity; (3) require that copies of reports be retained for 3 years instead of 2; and (4) require the Director, upon request, to determine whether an individual is a covered executive branch official or a covered legislative branch official.

On the first issue, the conference amendment would adopt the language of the House amendment.

On the second issue, the conference amendment would provide that copies of registrations be retained for at least three years after the termination of a registration and that electronic records of registrations be retained for at least five years after the termination of a registration.

On the third issue, the conference amendment would adopt the language of the House amendment.

On the fourth issue, the conference amendment would adopt a compromise approach, under which an individual who is contacted by a lobbyist (or the office employing such individual), rather than the Director, would be required to state whether the individual is a covered official. This requirement would be placed in section 119(c) of the conference amendment.

The conference amendment would also require the Director to study the definition of the term "public official" and make recommendations for any changes to this definition which might be necessary to ensure appropriate disclosure of lobbying activities and equitable treatment of public and quasi-public entities. The Director's recommendations would be included in the first annual report required by the bill.

Section 108. Initial Procedure for Alleged Violations.—Section 7 of the Senate bill and section 8 of the House amendment contain the initial procedures for resolution of alleged violations. Section 108 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 108(a): Allegation of a Violation.—Under section 7(a) of the Senate bill and section 8(a) of the House amendment, whenever the Director has reason to believe that a person may be in violation of the Act, the Director is required to notify the person and provide the person an opportunity to respond in writing to the allegation. The conferees agree to this provision.

Section 108(b): Initial Determination.—Section 7(b) of the Senate bill would provide that, upon receipt of a response to a notification under section 7(a), the Director would: (a) take no further action, if it appeared unlikely that the Act had been violated; (b) provide an automatic reduction of penalty for a major violation (and no penalty at all, for a minor violation) if the violation was admitted and corrected; and (c) make a formal request for information if the information or explanation provided indicated that the person might be in violation of the Act.

Section 8(b) of the House amendment differs from the Senate bill in that it: (1) would authorize the Director to avoid further proceedings only if the information or explanation provided was adequate to issue a written determination that the person had not violated the Act (and not if it merely appeared that a violation was unlikely); (2) would not provide for any reduction in penalty if a violation was admitted and corrected; and (3) would authorize the Director to either request additional information or proceed directly to a hearing, if the information or explanation provided indicated that the person may be in violation of the Act.

On the first issue, the conference amendment would adopt the language of the House amendment. On the second issue, the conference amendment would drop the requirement for an automatic reduction in penalty if a violation is admitted or corrected, but would provide (in section 108(e)(1)) that whether or not a violation is voluntarily admitted and corrected is a factor to be considered by the Director in determining the amount of a penalty under the Act. On the third issue, the conference amendment would adopt the language of the House amendment, with minor clarifying changes.

Section 108(c): Formal Request for Information.—Section 7(c) of the Senate bill would provide for the Director to make formal requests for specific "documentary information" that is reasonably necessary to make a determination whether a person has violated the Act. Section 8(c) of the House amendment contains a similar provision, which differs from the Senate bill, in that it would authorize requests for specific "written information". The conference amendment would adopt the language of the House amendment, authorizing requests for written information. The conferees understand that the term "written information" is broader than the term "documentary information" and may include interrogatories calling for an answer in writing, in addition to requests for documents.

Section 109. Determinations of Violations.—Section 8 of the Senate bill and section 9 of the House bill would establish procedures for hearings and determination of violations. Section 109 of the conference amendment would resolve the differences between the Senate bill and the House amendment as follows.

Section 109(a): Notification and Hearing.—Section 8(a) of the Senate bill would provide for notification and hearing in cases in which the Director finds that the Act may have been violated. This subsection would provide for an informal hearing in the case of a minor violation and a full hearing under the Administrative Procedure Act in the case of a significant violation. Section 9(a) of the House amendment contains a similar provision, but would provide for a full APA hearing for either a minor violation or a significant

violation. The conference amendment would adopt the language of the House amendment.

Section 109(b): Determinations.—Section 8(b) of the Senate bill and section 9(b) of the House amendment would provide for determinations by the Director in substantially similar terms. The conferees agree to this provision.

Section 109(c): Written Decision.—Section 8(c) of the Senate bill and section 9(c) of the House amendment would provide for the issuance of written decisions by the Director in substantially similar terms. The conferees agree to this provision.

Section 109(d): Civil Injunctive Relief.—Section 8(d) of the Senate bill and section 9(d) of the House amendment would provide for referral to the Attorney General to seek civil injunctive relief in substantially similar terms. The conferees agree to this provision.

Section 109(e): Penalty Assessments.—Section 8(e) of the Senate bill would provide guidelines for penalty assessments and would define major violations as knowing failure to register and other knowing violations that are extensive or repeated. Section 9(e) of the House amendment contains similar language, but differs from the Senate bill in that it would: (1) delete a provision of the Senate bill, which prohibited the Director from assessing a penalty in an amount greater than that recommended by an Administrative Law Judge; and (2) extend the definition of major violations to include actions which a person "should have known" violated the Act.

On the first point, the conference amendment would adopt the language of the House amendment. On the second point, the conference amendment would adopt a compromise approach. Under this approach, a person may be penalized for a minor violation if he or she "knew or should have known" that he or she was in violation of the Act. A person may be penalized for a major violation only if he or she fails to register or commits another violation that is extensive or repeated and: (a) had actual knowledge that the conduct constituted a violation; (b) acted in deliberate ignorance of the provisions of the Act or implementing regulations; or (c) acted in reckless disregard of the Act or implementing regulations.

In addition, the conference amendment would require the Director, in determining the amount of a penalty to be assessed, to consider: (a) whether a violation was voluntarily admitted and corrected; (b) the extent to which the person or entity may have profited from the violation; (c) the ability of the penalized person or entity to pay; and (d) such other matters as justice may require.

Section 9 of the Senate bill and section 10 of the House amendment contain provisions regarding penalties for late registration or filing and failure to provide information. The conference amendment would add these provisions to section 109 of the bill, addressing determinations of violations generally.

Under the conference amendment, as under the House and Senate bills, a $200 penalty would be assessed for each week by which a filing is late. For the purpose of this provision, the term "each week" would include a portion of a week. If the Director determines, however, that a late filing was extensive or repeated and that the person committing the violation acted with actual knowledge, deliberate ignorance, or reckless disregard of the relevant law, a larger penalty would be assessed under the paragraph pro-

viding penalties for major violations. For example, a late filing would be penalized as a major violation if it were a part of a deliberate pattern of late filings with intent to evade the disclosure requirements of the Act.

Section 110: Disclosure of Information.—Section 7(d) of the Senate bill would prohibit the Director from disclosing information obtained in the dispute resolution process to the public, or outside the Office of Lobbying Registration and Public Disclosure, without the consent of the person providing the information, with specific exceptions. Section 8(d) of the House amendment contains a similar provision, which differs from the Senate bill in that it would not limit the disclosure of information to other federal officials. In addition, the House bill contains several provisions that would address the publication of written decisions by the Director.

Section 110 of the conference amendment would consolidate these provisions in a new section. Under section 110, the Director would make information provided to the Director in the dispute resolution process available to the public only through a report or registration filed by the registrant, or in a written decision issued by the Director. This section would provide that all written decisions shall be available to the public, and any decision may be published if the Director determines that publication would provide useful guidance.

Information that would identify a person or entity would be deleted from a written decision before the decision is made public, under circumstances described in the provision. A person who is a party to the proceeding and is not found to have violated the Act may have identifying information deleted, upon request. Information that would identify a person who is not a party to the proceeding must be deleted if the Director determines that such person or entity could reasonably be expected to be injured by the disclosure of such information. No request for redaction by a non-party would be required, as a person who is not a party to the proceeding may not be aware of the proceeding or in a position to make such a request.

The conferees intend that if the Director finds that there has been a violation of Section 106 and has reason to believe that a covered legislative branch official may have knowingly participated in such violation, the Director shall refer the matter to the Senate Select Committee on Ethics or the House Committee on Standards of Official Conduct, as appropriate.

Section 111. Judicial Review.—Section 10 of the Senate bill and section 11 of the House amendment would provide in substantially similar terms for judicial review of written decisions of the Director. The Senate bill would provide that any person who prevails on the merits would be entitled to recover attorneys' fees from the United States; the House amendment contained no such provision. The conference amendment would not include the attorneys' fees provision. The conferees note that such fees may be available, in appropriate cases, in accordance with the terms of the Equal Access to Justice Act.

Section 112. Rules of Construction.—Section 11 of the Senate bill contains two rules of construction, which would provide that nothing in the Act may be construed to prohibit lobbying activities

or to grant general audit or investigative authority to the Director. Section 12 of the House amendment contains a similar provision, but adds a third rule of construction, which would state that nothing in the Act may be construed to interfere with the exercise of rights protected by the First Amendment to the Constitution. The conference amendment would adopt all three rules of construction, including the third rule added by the House amendment. The conferees note that the authorities granted to the Director under sections 7, 8 and 9 of the Act do not include general audit or investigative authority.

Section 113. Amendments to the Foreign Agents Registration Act.—The Senate bill would amend the Foreign Agents Registration Act (FARA) to limit the definition of the term "foreign principal" to the government of a foreign country or a foreign political party. The bill would provide for disclosure of lobbying by representatives of foreign corporations, organizations and individuals under the Lobbying Disclosure Act, rather than FARA.

The House amendment would retain the current definition of "foreign principal" in FARA, including foreign corporations, organizations and individuals as well as foreign governments and political parties. The House amendment would add a new provision to FARA, exempting from registration any person who is required to register and does register under the Lobbying Disclosure Act. Lobbying contacts for foreign corporations, organizations and individuals would trigger a requirement to register under the Lobbying Disclosure Act, but lobbying contacts for foreign governments and political parties would not. Contacts on behalf of foreign governments and political parties would continue to be disclosed under FARA.

The conference amendment would adopt the language of the House amendment. The result is that, while lobbyists for foreign corporations, organizations and individuals would generally be required to register under the Lobbying Disclosure Act (and not under FARA), any representative of a foreign corporation, organization or individual who is not required to register as a lobbyist (such as a representative of a foreign corporation which engages only in public relations activities and does no lobbying in the United States), or fails to do so, would still be required to register under FARA. The conferees note that FARA does not and would not apply to an organization whose activities are entirely supervised, directed, controlled, financed and subsidized by citizens of the United States, even if the agenda of such an organization includes issues affecting the foreign policy of the United States.

Section 114. Amendments to the Byrd Amendment.—Section 13 of the Senate bill and section 14 of the House amendment would amend the so-called Byrd amendment to eliminate separate lobbying disclosure provisions and harmonize that provision with the requirements of the Lobbying Disclosure Act. The conferees agree to this provision.

Section 115. Repeal of Certain Lobbying Provisions.—Section 14 of the Senate bill would repeal certain obsolete and redundant lobbying disclosure provisions. Section 15 of the House amendment contains similar repealers, but would not repeal the lobbying reg-

istration requirement in the Public Utility Holding Company Act of 1935 (PUHCA).

The conferees have been assured that the Securities and Exchange Commission and the relevant Committees of jurisdiction intend to review the PUHCA registration requirement and will seek its repeal if the provision is no longer needed. On this basis, the conference amendment would adopt the House approach and leave the repeal of the PUHCA registration requirement to consideration by the appropriate committees.

Section 116. Conforming Amendments to Other Statutes.—Section 15 of the Senate bill contains conforming amendments to other statutes. Section 16 of the House amendment contains similar conforming amendments and would also amend section 201(c)(1) of Title 18 to address the relationship between the criminal gratuity statute and the congressional gift rules. The conference amendment would not amend section 201 because the conferees determined that such an amendment was unnecessary. In fact, a federal district court specifically determined that the Ethics Reform Act of 1989 "was enacted to limit the liability of public officials under the gratuities statute by permitting the ethics offices in each branch of government to establish rules for the acceptance of gifts. See 827 F. Supp. 1153, 1173 (1993). Title II of the conference amendment would establish such rules.

Section 117. Severability.—Section 16 of the Senate bill and section 17 of the House amendment would provide that if any provision of the Act is found to be unconstitutional, such provision would be treated as severable and the remainder of the Act would remain in effect. The conferees agree to this provision.

Section 118. Authorization of Appropriations.—Section 17 of the Senate bill and section 18 of the House amendment would authorize appropriations. Section 118 of the conference amendment would authorize appropriations for a period of five years, to ensure effective congressional oversight of the Office of Lobbying Registration and Public Disclosure.

Section 119. Identification of Clients and Covered Officials.—Section 19 of the Senate bill would require any person who makes a lobbying contact to identify, on request of the individual contacted, the client on whose behalf the contact is made. Section 20 of the House amendment would require any person who makes a lobbying contact on behalf of a foreign client to identify, on request of the individual contacted, the client on whose behalf the contact is made and to confirm the information provided in writing. The House provision would also require all written lobbying contacts on behalf of foreign clients to identify the client on whose behalf the contact is made, and would provide a definition of the term "foreign client".

The conference amendment would adopt a compromise approach. Under the conference amendment, any person who makes an oral lobbying contact would be required, on request of the individual contacted, to identify the client on whose behalf the contact is made, state whether the client is a foreign entity, and identify any foreign entity subject to disclosure under the registration provisions of the bill which has a direct interest in the outcome of the lobbying activity. A lobbyist who makes a written lobbying contact

would be required to identify any foreign entity that is a client or an entity subject to disclosure under the registration provisions of the bill that has a direct interest in the outcome of the lobbying activity.

In addition, section 119 of the conference amendment would require an individual who is contacted by a lobbyist (or the office employing such individual) to state whether or not the individual contacted is a covered executive branch official or a covered legislative branch official.

Section 120. Transitional Filing Requirement.—Section 19 of the Senate bill section 20 of the House amendment contain a transitional filing requirement, to apply until such time as the Office of Lobbying Registration and Public Disclosure is able to make computer transmittal of registrations and reports to the Senate and the House of Representatives. The conferees agree to this provision.

Government-Sponsored Enterprises—Report to Congress. Section 20 of the Senate bill would require government-sponsored enterprises to file special annual reports with the Congress on their lobbying activities. The House amendment contains no parallel provision. The conference amendment would not include the Senate provision. Under the conference amendment, lobbying for government-sponsored enterprises would be reported in the same manner, and to the same extent, as lobbying for other entities.

Section 121. Effective Dates and Interim Rule.—Section 23 of the Senate bill would provide effective dates for the Act and implementing regulations. Section 20 of the House amendment contains similar language on effective dates and would add a new interim reporting rule for organizations that are required to track their lobbying expenditures under the new provision in the Internal Revenue Code addressing the non-deductibility of lobbying expenses. Section 121 of the conference amendment would address the differences between the Senate bill and the House amendment as follows:

Subsection 121(a): In General.—Section 121(a) of the conference amendment would provide that the Lobbying Disclosure Act (Title I of the bill) and the amendments made by the Lobbying Disclosure Act shall take effect on January 1, 1996.

Subsection 121(b): Interim Gift Prohibition.—Section 121(b) of the conference amendment would provide that section 106 of the bill, prohibiting gifts from registered lobbyists, lobbying firms and foreign agents to covered legislative branch officials, would take effect on January 3, 1995. During calendar year 1995, before the effective date of the balance of the Lobbying Disclosure Act, this prohibition would apply to lobbyists and foreign agents registered under the existing Federal Regulation of Lobbying Act and Foreign Agents Registration Act. The provision would preclude evasion through termination of registrations under these Acts by covering any lobbyist or foreign agent registered under existing law as of July 1, 1994 or thereafter.

Subsection 121(c): Establishment of Office.—Section 121(c) of the conference amendment, like the Senate bill and the House amendment, would provide that the provisions establishing the office of Lobbying Registration and Public Disclosure, and authoriz-

ing appropriations for that office, would take effect upon enactment.

Subsection 121(d): Repeals and Amendments.—Section 121(d) of the conference amendment, like the Senate bill and the House amendment, would provide for the continued effectiveness of existing lobbying registration laws during the interim period prior to the effective date of the Lobbying Disclosure Act.

Subsection 121(e): Regulations.—Section 121(e) of the conference amendment, like the Senate bill and the House amendment, would provide a timetable for the issuance of proposed and final regulations implementing the Act.

Subsection 121(f): Phase-in period.—Section 121(f) of the conference amendment, like the Senate bill and the House amendment, would provide a phase-in period during which no penalties would be assessed for violations of the Act. As in the House bill, this subsection would provide that violations of the gift prohibition in section 106 of the bill during the phase-in period, unlike violations of other provisions of this title, would be subject to penalties.

Subsection 121(g): Interim Rules.—Section 121(g) of the conference amendment contains an interim reporting rule similar to the provision contained in the House amendment. Under the interim reporting rule, entities that are required to account for their lobbying expenditures pursuant to the non-deductibility rules would be permitted to use the same accounting system to account for and report lobbying expenses under the Lobbying Disclosure Act. This provision would apply to in-house lobbyists who are covered by the non-deductibility provision, and not to lobbying firms which are not covered by the non-deductibility provision of the Internal Revenue Code.

In addition, the conference amendment would modify the interim rule to provide that organizations reporting lobbying expenditures under the Internal Revenue Code may use certain definitions in the Internal Revenue Code in making the determination whether an individual is a "lobbyist" under this Act. Each entity covered by this provision must choose whether to use the Lobbying Disclosure Act definitions or the IRS definitions in a particular calendar year and notify the Office of Lobbying Registration and Public Disclosure of this choice. This provision would apply to the in-house employees of organizations that are required to account for lobbying expenditures pursuant to section 162(e) or section 6033(b)(8) of the Internal Revenue Code; it would not apply to employees of outside lobbying firms representing such organizations which are not covered by the non-deductibility provisions of the Internal Revenue Code.

The provision would expire on December 31, 1998 and would provide for a GAO report to Congress on differences between the definition of lobbying activities in the Lobbying Disclosure Act and definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of the Internal Revenue Code. The GAO report would also address the impact that any such differences may have on filing and reporting under the Lobbying Disclosure Act (including the interim reporting rule). The conferees expect this study to lead to recommendations for appropriate adjustments to harmonize the definitions.

Subsection 121(h): Interim Director.—Section 121(h) of the conference amendment would authorize the President to appoint an interim Director of the Office of Lobbying Registration and Public Disclosure until the first Director after enactment of this Act has been nominated by the President and confirmed by the Senate. This provision is intended to avoid unnecessary delays in the implementation of this Act and ensure that the Office of Lobbying Registration and Public Disclosure will be up and running in a timely manner. The provision would prohibit the interim Director from promulgating final regulations or initiating enforcement actions; these authorities would be reserved for the Director.

TITLE II.—CONGRESSIONAL GIFT RULES

Section 5(c) of the Senate bill would require lobbyists to disclose certain gifts to covered legislative branch officials. Section 6 of the House amendment would prohibit most gifts from lobbyists and their clients to covered legislative branch officials and require the disclosure of other gifts. In addition, a separate bill passed by the Senate, S. 1935, would prohibit Members of Congress and congressional staff from accepting most gifts from lobbyists or from any other sources.

The conference amendment would adopt a compromise approach to these proposals. Section 106 of the conference amendment would prohibit lobbyists from making virtually any gift to covered legislative branch officials. Title II of the conference amendment would amend the Standing Rules of the Senate and the Rules of the House of Representatives to address the acceptance of gifts by Members, officers and employees of both bodies. However, the rules cannot anticipate every situation that a Member, officer, or employee will confront. The Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct would provide guidance and further regulation to assure that the rules are fairly construed.

Section 201. Amendment to Senate Rules.—Section 201 of the conference amendment would amend Rule XXXV of the Standing Rules of the Senate to provide tight, new restrictions on the acceptance of gifts by Members, officers, and employees of the Senate.

Paragraph 1 of the new Rule XXXV would prohibit Members, officers, and employees from accepting any gift from a registered lobbyist, lobbying firm, or foreign agent, knowing that such gift is provided in violation of the Lobbying Disclosure Act of 1994.

Paragraph 2 of the new rule XXXV would address gifts from other sources.

Subparagraph 2(a) would prohibit Members, officers, and employees from knowingly accepting a gift from any other person (in addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and foreign agents), except as otherwise provided in the Rule.

Subparagraph 2(b) would define the term "gift" to include any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term would include gifts of services, training, transportation, lodging, and meals—whether provided in kind, by purchase of ticket, payment in advance, or reimbursement after the expense has been incurred. This

definition is the same as the definition of "gift" in the executive branch gift rules.

This subparagraph would also provide that a gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) would be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee, and the Member, officer or employee has reason to believe the gift was given because of his or her official position. Something of value that is provided by one person to both a Member, officer, or employee and the spouse or dependent of that Member, officer, or employee, may be considered two separate gifts, depending on the nature of what is provided and the time and manner in which it is provided. A gift (such as a wedding gift) which is given jointly to both a Member, officer or employee and the spouse of that Member, officer or employee and that would not be appropriate under the circumstances to give to only one of the two recipients by an individual who has a family or personal relationship with only one of the two recipients would be considered a gift to the recipient who has the relationship with the donor. Such a gift may be accepted under the family or personal relationship exception if the gift otherwise meets the requirements of that provision.

Subparagraph 2(c) would except certain items from the prohibitions on gifts from persons other than registered lobbyists, lobbying firms, and foreign agents. These exceptions are similar to those contained in S. 1935 and in the House amendment to S. 349.

Excepted items would include: anything for which the recipient pays the market value or does not use and promptly returns; lawfully made campaign contributions and attendance at political fundraising events; gifts that are provided on the basis of personal or family relationships; an otherwise lawful contribution to a legal expense fund; food or refreshment of minimal value; a gift from another Member, officer, or employee of the Senate or the House of Representatives; food and lodging provided in connection with a job interview, a fundraising or campaign event, or resulting from outside business, employment, or other outside activities of a Member, officer, or employee (or the spouse thereof); pension and other benefits resulting from prior employment; informational materials that are sent to the office of the Member, officer, or employee; awards and prizes given to competitors in contests open to the public; honorary degrees and other bona fide awards; donations of home State products for promotional purposes; food, refreshments, and entertainment provided in a Member's home State (subject to reasonable limitations to be established by the Rules Committee); training provided in the interest of the Senate; bequests, inheritances, and other transfers at death; gifts expressly permitted by statute; anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract; a gift of personal hospitality; free attendance at widely attended events; opportunities and benefits available to all of an appropriate class of the general public; and a plaque, trophy, or other memento of modest value. The rule would provide for waiver by the Select Committee on Ethics only in unusual cases.

This subparagraph would establish an exception for gifts based on personal or family relationships. This exception would not apply where the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of his or her official position and not because of the personal or family relationship. For example, a gift would not be considered to be based on a personal or family relationship if the Member, officer, or employee has reason to believe that the individual providing the item intends to deduct the value of the item as a business expense on the individual's tax return or to accept direct or indirect reimbursement or compensation for the item from a client or a firm of which the individual is a member or employee. The provision would direct the Select Committee on Ethics to provide guidance on the applicability of this paragraph and examples of circumstances under which a gift may be accepted under this exception.

Subparagraph 2(d) would provide for participation in widely attended events, such as conventions, conferences, symposia, forums, panel discussions, dinners, viewings, and receptions, by Members, officers and employees. Under this provision, a Member, officer or employee would be permitted to accept a sponsor's offer of free attendance at such an event, if he or she were participating in the event as a speaker, or if attendance were otherwise appropriate to the performance of his or her official duties or representational function. In appropriate circumstances, Members, officers and employees would also be permitted to accept an offer of free attendance for an accompanying individual. Free attendance would be defined to include waiver of all or part of a fee or the provision of food, refreshment, entertainment, and instructional materials furnished as an integral part of the event.

In addition to widely attended events, subparagraph 2(d) would permit a Member, officer, or employee to accept a sponsor's unsolicited offer of free attendance at a charity event—such as a charity dinner or a charitable golf or tennis tournament. However, the provision would not permit the acceptance of transportation or lodging in connection with participation in such an event. The references to "the sponsor" of an event in this subsection are intended to refer to the person, entity, or entities that are primarily responsible for organizing the event.

Subparagraph 2(e) would prohibit the acceptance of a gift in excess of $250 on the basis of a personal relationship or personal friendship exception, unless the Select Committee on Ethics makes a written determination that one of the exceptions applies.

Subparagraph 2(f) would authorize the Committee on Rules and Administration to adjust the $20 limit for food and refreshments to the extent necessary to adjust for inflation; authorize the Select Committee on Ethics to provide guidance to Members, officers and employees on reasonable steps that they can take to prevent the acceptance of prohibited gifts from lobbyists; and permit the recipient of a perishable gift that may not be accepted under the new Rule to throw away the gift or give it to an appropriate charity.

Paragraph 3 of the new Rule XXXV would address the rules on reimbursement of officially connected travel by private sources. Under this provision, Members, officers and employees would be

prohibited from accepting travel reimbursement from registered lobbyists, lobbying firms and foreign agents. Members, officers and employees would be permitted to accept reimbursement for travel expenses from other sources for necessary expenses in appropriate circumstances, as set forth in the paragraph. Any such reimbursements would be deemed to be a reimbursement to the Senate and not a gift prohibited by the Rule.

Under subparagraph (a) of Paragraph 3, a Member, officer or employee would be permitted to accept reimbursement, from sources other than registered lobbyists and foreign agents, for necessary travel expenses incurred in connection with a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer or employee as an officeholder. Events, the activities of which are substantially recreational in nature, would not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder. Accordingly, private reimbursement of travel expenses incurred in connection with charitable golf, tennis or ski tournaments, or similar recreational events, would be prohibited.

Subparagraph (b) of Paragraph 3 would set forth the requirements for advance authorization of privately reimbursed travel for congressional staff. Under this provision, each advance authorization would be signed by the Member or officer under whose direct supervision the employee works and would include: the name of the Member, officer or employee; the name of the person making the reimbursement; the time, place and purpose of the travel; and a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

Subparagraph (c) would set forth the requirements for disclosure of expenses reimbursed. Under this provision, each such disclosure would be signed by the appropriate Member or officer and would include: a good faith estimate of total transportation expenses reimbursed; a good faith estimate of total lodging expenses reimbursed; a good faith estimate of total food and refreshment expenses reimbursed; a good faith estimate of any other expenses reimbursed; a determination that all such expenses are necessary transportation, lodging, and related expenses; and in the case of reimbursement to a Member or officer, a determination that the travel is in connection with the duties of the Member of officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

Subparagraph (d) would define the term "necessary transportation, lodging, and related expenses". Under this provision, necessary expenses would be limited to expenses necessary for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States. A Member, officer or employee would be permitted to extend his or her stay beyond these periods only if approved in advance by the Select Committee on Ethics or at his or her own expenses. (As under the current rule, travel to Alaska, Hawaii, and U.S. Territories and possessions would be treated as travel outside the United States.)

Necessary expenses would be limited to expenditures for transportation, lodging, conference fees and materials, and food or refreshment. Necessary expenses would not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event. Reimbursement for travel expenses incurred on behalf of either the spouse or a child of a Member, officer, or employee could be accepted, subject to a determination that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

Subparagraph (e) would require the Secretary of the Senate to make available to the public all advance authorizations and disclosures of reimbursement filed under this paragraph as soon as possible after they are filed.

Section 202. Amendment to House Rules.—Section 202 of the conference amendment would amend clause 4 of rule XLIII of the Rules of the House of Representatives to provide tight, new restrictions on the acceptance of gifts by Members, officers, and employees of the House of Representatives.

Paragraph (a) any gift from a registered lobbyist, lobbying firm, or foreign agent, knowing that such gift is provided in violation of the Lobbying Disclosure Act of 1994.

Paragraph (b) would prohibit Members, officers, and employees from knowingly accepting a gift from any other person (in addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and foreign agents), except as otherwise provided in the Rule.

Paragraph (c) would define the term "gift" to include any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term would include gifts of services, training, transportation, lodging, and meals—whether provided in kind, by purchase of ticket, payment in advance, or reimbursement after the expense has been incurred. This definition is the same as the definition of "gift" in the executive branch gift rules.

This paragraph would also provide that a gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) would be considered a gift to the Member, officer or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee, and the Member, officer or employee has reason to believe the gift was given because of his or her official position. Something of value that is provided by one person to both a Member, officer, or employee and the spouse or dependent of that Member, officer, or employee may be considered two separate gifts, depending on the nature of what is provided and the time and manner in which it is provided. A gift (such as a wedding gift) which is given jointly to both a Member, officer or employee and the spouse of that Member, officer or employee and that would not be appropriate under the circumstances to give to only one of the two recipients by an individual who has a family or personal relationship with only one of the two recipients would be considered a gift to the recipient who has the relationship with the donor. Such a gift may be accepted under the family or per-

sonal relationship exception if the gift otherwise meets the requirements of that provision.

Paragraph (d) would except certain items from the prohibitions on gifts from persons other than registered lobbyists, lobbying firms, and foreign agents. These exceptions are similar to those contained in S. 1935 and in the House amendment to S. 349.

Excepted items would include: anything for which the recipient pays the market value or does not use and promptly returns; lawfully made campaign contributions and attendance at political fundraising events; gifts that are provided on the basis of personal or family relationships; an otherwise lawful contribution to a legal expense fund; food or refreshment of minimal value; a gift from another Member, officer, or employee of the Senate or the House of Representatives; food and lodging provided in connection with a job interview, a fundraising or campaign event, or resulting from outside business, employment, or other outside activities of a Member, officer, or employee (or the spouse thereof); pension and other benefits resulting from prior employment; informational materials that are sent to the office of the Member, officer, or employee; awards and prizes given to competitors in contests open to the public; honorary degrees and other bona fide awards; donations of home State products for promotional purposes; food, refreshments, and entertainment provided in a Member's home State (subject to reasonable limitations to be established by the Committee on Standards of Official Conduct); training provided in the interest of the House of Representatives; bequests, inheritances, and other transfers at death; gifts expressly permitted by statute; anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract; a gift of personal hospitality; free attendance at widely attended events; opportunities and benefits available to all of an appropriate class of the general public; and a plaque, trophy, or other memento of modest value. The rule would provide for waiver by the Committee on Standards of Official Conduct only in exceptional circumstances.

This paragraph would establish an exception for gifts based on personal or family relationships. This exception would not apply where the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of his or her official position and not because of the personal or family relationship. For example, a gift would not be considered to be based on a personal or family relationship if the Member, officer, or employee has reason to believe that the individual providing the item intends to deduct the value of the item as a business expense on the individual's tax return or to accept direct or indirect reimbursement or compensation for the item from a client or a firm of which the individual is a member or employee. The provision would direct the Committee on Standards of Official Conduct to provide guidance on the applicability of this paragraph and examples of circumstances under which a gift may be accepted under this exception.

Paragraph (e) would provide for participation in widely attended events, such as conventions, conferences, symposia, forums, panel discussions, dinners, viewings, and receptions, by Members, officers and employees. Under this provision, a Member, officer or

employee would be permitted to accept a sponsor's offer of free attendance at such an event, if he or she were participating in the event as a speaker, or if attendance were otherwise appropriate to the performance of his or her official duties or representational function. In appropriate circumstances, Members, officers and employees would also be permitted to accept an offer of free attendance for an accompanying individual. Free attendance would be defined to include waiver of all or part of a fee or the provision of food, refreshment, entertainment, and instructional materials furnished as an integral part of the event.

In addition to widely attended events, paragraph (e) would permit a Member, officer, or employee to accept a sponsor's unsolicited offer of free attendance at a charity event—such as a charity dinner or a charitable golf or tennis tournament. However, the provision would not permit the acceptance of transportation or lodging in connection with participation in such an event. The references to "the sponsor" of an event in this subsection are intended to refer to the person, entity, or entities that are primarily responsible for organizing the event.

Paragraph (f) would prohibit the acceptance of a gift in excess of $250 on the basis of a personal relationship or personal friendship exception, unless the Committee on Standards of Official Conduct makes a written determination that one of the exceptions applies.

Paragraph (g) would authorize the Committee on Standards of Official Conduct to adjust the $20 limit for food and refreshments to the extent necessary to adjust for inflation; authorize the Committee to provide guidance to Members, officers and employees on reasonable steps that they can take to prevent the acceptance of prohibited gifts from lobbyists; and permit the recipient of a perishable gift that may not be accepted under the new Rule to throw away the gift or give it to an appropriate charity.

Paragraph (h) would address the rules on reimbursement of officially connected travel by private sources. Under this provision, Members, officers and employees would be prohibited from accepting travel reimbursement from registered lobbyists, lobbying firms and foreign agents. Members, officers and employees would be permitted to accept reimbursement for travel expenses from other sources for necessary expenses in appropriate circumstances, as set forth in the paragraph. Any such reimbursements would be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by the Rule.

Under subparagraph (1), a Member, officer or employee would be permitted to accept reimbursement, from sources other than registered lobbyists and foreign agents, for necessary travel expenses incurred in connection with a meeting, speaking engagement, fact-finding trip or similar event in connection with the duties of the Member, officer or employee as an officeholder. Events, the activities of which are substantially recreational in nature, would not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder. Accordingly, private reimbursement of travel expenses incurred in connection with charitable golf, tennis or ski tournaments, or similar recreational events, would be prohibited.

Subparagraph (2) would set forth the requirements for advance authorization of privately reimbursed travel for congressional staff. Under this provision, each advance authorization would be signed by the Member or officer under whose direct supervision the employee works and would include: the name of the Member, officer or employee; the name of the person making the reimbursement; the time, place and purpose of the travel; and a determination that the travel is in connection with the duties of the employee as an officerholder and would not create the appearance that the employee is using public office for private gain.

Subparagraph (3) would set forth the requirements for disclosure of expenses reimbursed. Under this provision, each such disclosure would be signed by the appropriate Member or officer and would include: a good faith estimate of total transportation expenses reimbursed; a good faith estimate of total lodging expenses reimbursed; a good faith estimate of total food and refreshment expenses reimbursed; a good faith estimate of any other expenses reimbursed; a determination that all such expenses are necessary transportation, lodging, and related expenses; and in the case of reimbursement to a Member or officer, a determination that the travel is in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

Subparagraph (4) would define the term "necessary transportation, lodging, and related expenses". Under this provision, necessary expenses would be limited to expenses necessary for a period not exceeding 4 days including travel time within the United States or 7 days exclusive of travel time outside of the United States and within 24 hours before or after participation in an event in the United States or within 48 hours before or after participation in an event outside the United States. A Member, officer or employee would be permitted to extend his or her stay beyond these periods only if approved in advance by the Committee on Standards of Official Conduct or at his or her own expense. (As under the current rule, travel to Alaska, Hawaii, and U.S. territories and possessions would be treated as travel outside the United States.)

Necessary expenses would be limited to expenditures for transportation, lodging, conference fees and materials, and food or refreshment. Necessary expenses would not include expenditures for recreational activities or entertainment other than that provided to all attendees as an integral part of the event. Reimbursement for travel expenses incurred on behalf of either the spouse or a child of a Member, officer, or employee could be accepted, subject to a determination that the attendance of the spouse or child is appropriate to assist in the representation of the House of Representatives.

Subparagraph (5) would require the Clerk of the House to make available to the public all advance authorizations and disclosures of reimbursement filed under this paragraph as soon as possible after they are filed.

Section 203. Miscellaneous Provisions.—Section 203 of the conference amendment contains certain miscellaneous provisions relative to the acceptance of gifts.

Subsection 203(a): Amendments to the Ethics in Government Act.—Section 203(e) would amend the Ethics in Government Act to provide that travel reimbursements properly reported under the new Senate and House gift rules do not also have to be reported in personal financial disclosure statements.

Subsection 203(b): Repeal of Obsolete Provision.—Section 203(b) would repeal Section 901 of the Ethics Reform Act of 1989, which contains the current Senate gift rules and would be superseded by the enactment of this bill.

Subsection 203(c): Senate Provisions.—Subsection 203(c) contains miscellaneous provisions applicable to the Senate. Paragraph (1) would authorize the Committee on Rules and Administration to accept gifts on behalf of the Senate, in appropriate circumstances. Nothing in this paragraph would restrict any authority that any other Committee or office of the Congress may have under existing law. Paragraph (2) would provide that the rules on acceptance of food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State prior to the adoption of reasonable limitations by the Committee on Rules and Administration shall be the rules in effect on the day before the effective date of the new gift rules.

Subsection 203(d): House Provisions.—Subsection 203(d) would provide that the rules on acceptance of food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State prior to the adoption of reasonable limitations by the Committee on Standards of Official Conduct shall be the rules in effect on the day before the effective date of the new gift rules.

Subsection 204. Exercise of Congressional Rulemaking Powers.—Section 204 of the conference amendment would provide that the sections of this Title amending the congressional gift rules are an exercise of the congressional rulemaking power.

Section 205. Effective Date.—Section 205 of the conference amendment would provide that Title II of the conference amendment shall become effective on May 31, 1995. The conferees agreed to this date to provide time for the Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct to develop guidance, as required by the bill.

JOHN BRYANT,
DAN GLICKMAN,
MIKE SYNAR,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DANIEL AKAKA,
BILL COHEN,
TED STEVENS,
Managers on the Part of the Senate.

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