way. There have been a lot of conversations going back and forth by both Senators on both sides of the aisle, Senators interested in lobbying reform legislation and gift rule changes. I think we have made progress. I felt like everything was going in a positive way.

We did come in right at 9 o'clock. Ordinarily, there is at least a Senator or two waiting, ready to make some comment in morning business. This morning we did not have them. We have one key Senator who is going to need to be involved in this discussion, Senator MCCONNELL, who is on his way, I believe, from the airport. So I think it is important that we begin with an open and positive debate and that we not start making accusations.

I know that the Senator from Kentucky has been working very hard. He is here ready to go. I am ready to go. I suggest, Mr. President, that we go ahead and begin the debate, sort of set out the basic parameters of where we are and move forward. We may have some amendments that will need to be offered. Some will be agreed to, I am sure, on lobbying reform. Our hope is that we can have genuine reform.

Personally, this Senator feels we need to tighten up the rules with regard to lobbying disclosure. I have always said we should err on the side of disclosure. Now, what is included in that disclosure is very important. It is not just technical language.

We need to make sure that it does not chill the ability of individual citizens at the grassroots level to talk with their Senators or their Congressmen. It is applicable to both bodies. I think that the concerns that we had in that area last year have been addressed, and everybody feels now grassroots lobbying by individual citizens, certainly, would be allowed under this legislation.

We need also to make sure it does not just become a paperwork nightmare. We need reasonable, logical reporting. I think we are moving in that direction.

Mr. President, I suggest we go ahead and begin with opening statements. I am sure that the Senator from Michigan would like to make an opening statement. We will take it from there.

LOBBYING DISCLOSURE ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1060) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The Senate proceeded with the consideration of the bill.

Mr. LEVIN. Mr. President, before I proceed, let me ask unanimous consent that Senator MCCAIN be added as a cosponsor. I see he was inadvertently left off of S. 1060 and S. 1061. I ask he be added to both.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Let me say to the Senator from Mississippi, I, like him, hope that we can reach an agreement relative to lobby disclosure, particularly as there has been some progress made on lobbying disclosure. In conversations over the last few days, we have a way to go, but on this subject we have made some progress. That progress, I hope, will continue today so we can come up with a strong lobby disclosure bill.

This Senate approved overwhelmingly a lobby disclosure bill last year. It was an overwhelming vote. When the bill came back from conference, there were a few changes in it. Those changes were utilized by some Members of this body as the basis of opposition to the entire bill. There was dispute over the meaning of those changes. Some people said that those changes would chill grassroots lobbying and the opportunity for individual citizens to lobby their Members. There was no such intent, and we believe no such language.

That is last year's debate. In any event, this year's bill does not contain the language which was pointed to. That, by the way, was language which was added by the House of Representatives and in conference. As I remember, there was no objection to that language. That became sort of the lightning rod here.

Again, that language is not included in this version, just the way it was not in the version that last passed the Senate with, I think, over 90 votes in the last Congress. So, we are going to renew our effort here today to address one of the most intractable issues that has been faced by the Congress over the last 50 years, and that is to try to reform the loophole-plagued lobbying disclosure law.

The lobbying disclosure act was passed in 1946. It was called the Lobbying Regulation Act at that time. Within a few years, President Truman pointed out to the Congress that there were already so many loopholes in that bill, that Lobbying Regulation Act, that it, for all intents and purposes, needed reform by 1948. So the principal bill that governs the regulation of lobbyists, passed in 1946, was already, within 2 years, pretty useless, confusing, and in need of reform.

President Truman asked the Congress to do exactly that. They did not pay heed. If they had paid heed we would not be here today. That is almost 50 years ago that the President of the United States told the public and the Congress that the act they had passed to require the registration of paid, professional lobbyists, was not doing its job.

The purpose of that bill was to try to get folks who were paid to lobby Congress to disclose who is paying them, how much they are being paid, and to lobby Congress on what issue. That was the purpose of the act that was passed almost 50 years ago.

Then again, in the 1950's, there was an effort made to reform the Lobbying Registration Act. Senator McClellan spearheaded an effort to reform the lobbying registration laws because, again, by then there were so many holes in it there were more holes than there were cheese; there were more loopholes than there was law. But Congress did not heed Senator McClellan's call in the 1950's. If they had, we probably would not be here today.

In the 1960's, lobbying reform was taken up by the Senate, passed, but was not passed by the House of Representatives. If it had, maybe we would not be here today.

In 1976, lobbying reform was passed by both Houses of Congress but in different versions. They were not reconciled in conference. If Congress had acted in 1976, and they got close, we would not have to be here today.

Decade after decade, there has been an effort to close the loopholes in lobbying registration, to make sense of these laws, and they have failed.

In 1978, the Senate Governmental Affairs Committee was so divided over lobbying registration that it could not even report out a bill. Last year we came close, we came within a hair of passing both lobbying registration reform and a gift ban, but it got caught up in the last few days of the Congress, the bill was filibustered here and, as a result, was not passed.

A lot of different issues defeated lobbying reform over the last 4 decades. Sometimes it was the definition of lobbying. Sometimes it was whether or not the executive branch should be covered. Sometimes it was the threshold for coverage. Sometimes it was a question of disclosure of expenditures to stimulate grassroots lobbying or the disclosure of contributors to lobbying organizations. Decade after decade, reasons were given for why we could not reach agreement on lobbying reform and decade after decade it has been frustrated.

So it has been a long and a sad history, in terms of trying to reform laws whose purpose it is to put a little sunshine into the area of paid lobbyists. Senator COHEN and I sought to address these issues when we introduced S. 2276, in the 102d Congress. We reintroduced basically the same measure in the 103d Congress, and we got that bill through the Senate. That was S. 349. But then it fell a few votes short, as I said, when it came to the floor.

We are trying to address these issues again in S. 101, now in S. 1060, which has a few additional modifications, and I believe there will be some further modifications on the Senate floor today.

The right to petition government is a constitutionally protected right. Lobbying is as much a part of our governmental process today as on-the-record

rulemakings for public hearings. Lobbying is part of democratic government, an inherent part of it, a constitutionally protected part of constitutional and democratic government. But the public has a right to know, and the public should know, who is being paid to lobby, how much they are being paid, on what issue.

If we want the public to have confidence in our actions, this business has to be conducted more in the sunshine. Lobbying disclosure will enhance public confidence in government by ensuring that the public is aware of the efforts that are made by paid lobbyists to influence public policy. In some cases, such disclosure, perhaps, will encourage lobbyists and their clients to be sensitive to even the appearance of improper influence. In other cases, it is likely to alert other interested parties of the need to provide their own views in decisionmaking.

The lobbying disclosure laws that are on the books today are useless. In the 102d Congress, the Subcommittee on Oversight of Government Management, which I then chaired—Senator COHEN was then the ranking member of it; and our roles have been reversed now—our subcommittee held a series of hearings on the lobbying disclosure laws. We learned that these laws are plagued by massive loopholes, confusing provisions, and an almost total absence of guidance on how to comply with them. For example, the Federal Regulation of Lobbying Act, the basic lobbying registration law now on the books, to which I referred, the law that was passed in 1946, covers only lobbying of the Congress on matters of legislation, not lobbying of the executive branch. And that law has been interpreted to cover only those who spend the majority of their time in personal meetings with Members of Congress.

As you can see from that loophole, that is not going to cover many people right off the bat. The way it has been interpreted, this basic law, is that in order to be covered, you have to spend a majority of your time actually in personal meetings with Members. There are not too many people who spend the majority of their time in personal meetings with Members of Congress, probably including our own secretaries. So, if you spend time with staff under this interpretation, with staff of the Members of Congress—and that is where, most of the time, lobbyists spend their efforts—that does not even count under that interpretation of the lobbying registration.

There are many other loopholes that have been discovered in that basic act. As a result of these loopholes, the General Accounting Office found that fewer than 4,000 of the 13,500 individuals who are listed in the book ''Washington Representatives'' were registered under the act. That is less than a third.

Despite the fact that three-quarters of the unregistered representatives interviewed by the General Accounting Office said that they contact Members of Congress and their staffs, that they deal with Federal legislation, and that they seek to influence actions of the Congress and the executive branch, the failure of these individuals, the organizations to register, does not mean that they are violating the law as it stands, because as it stands, again, there are more loopholes in this law than there is law.

The definition of lobbying is so narrow that few professional lobbyists are actually required to register under the laws that have been strictly interpreted. Moreover, most lobbyists who do register do not disclose anything to anybody which is of much use. The minority of lobbyists who do register tell us that they have incurred such expenses as a $45 phone bill or a $10 taxicab fare or $16 in messenger fees. Others who decide to register provide lists of prorated expenditures for salaries, rent, and other expenses. There is no public purpose that is served by most of the disclosures that we currently get, but just from a minority of people who actually register and from a minority of people who lobby who take the time to register.

At the same time, we are getting a lot of useless information from the relatively few that do register. We are not getting the most basic type of information that was intended by the statute, which is the total amount that is being spent on lobbying and for what purpose.

The lobbyists are supposed to disclose their purpose. Many just simply state—those again who do register—that they lobby on ''issues that affect business operations of the client'' or ''general legislative matters,'' or ''all legislation affecting the industry that they represent.''

That language is so general that it does not reveal anything. Worse still, only a small amount of the money that is spent on lobbying actually gets disclosed. For instance, in 1989, the Legal Times estimated the gross lobbying revenue of 10 of the biggest and best known Washington lobbying firms, and they estimated that revenue to be $60 million. However, a review of the lobbying reports that were filed by those 10 firms revealed that they reported combined lobbying receipts from all clients of less than $2 million.

By the way, they also reflect total expenditures of $35,000. Just to show you how distorted, how absurd, how useless these documents are where we do have people who register, we have three figures to keep in mind in that survey. This is a 1989 survey of the Legal Times estimate of the revenue of the 10 top firms of $60 million. When you look at their disclosure forms, they disclose revenue of $2 million and expenditures of $35,000.

So what is disclosed is perhaps 3 to 4 percent of the revenue coming in in terms of revenue, and what is disclosed in terms of expenditure is a fraction of a percent of the money which is being received.

Another study was made. This time, six top defense contractors reported to the Department of Defense that they spent a combined total of almost $8 million lobbying Congress in 1989. By comparison, when you look at the report filed by the six for the same six companies under the Lobbying Regulation Act, there was a total of less than $400,000 in lobbying income.

So the contractors reported $8 million in lobbying expenses but their lobbyists disclosed a total of $388,000 in terms of their revenue. That is a total disconnect between what contractors report to the Department of Defense that they are spending on lobbying and what their lobbyists disclose in terms of their receipts from those same six contractors.

Our existing lobbying laws have been characterized by the Department of Justice as ''inadequate'' and ''unenforceable,'' in effect. Those are their words, and that is charitable. The lobbying laws are a joke, and they are a bad joke, and they are a bad joke for everybody who is involved—first and foremost for the public, but they are also a bad joke for the lobbying community themselves.

The current laws breed disrespect for the law because they are so widely ignored. They have been a sham and a shambles since they were first enacted 50 years ago. At this time the American public is so skeptical that their Government really belongs to them. Our lobbying registration laws leave more lobbyists unregistered than registered.

Our subcommittee studied this subject in some detail. In 1993, we filed a report that I want to quote from because it contains in some detail the problems with lobbying disclosure laws and will give us a necessary understanding of what the problem is.

There are four major lobbying disclosure statutes currently in effect. Here I am quoting from the Lobbying Disclosure Act of 1993, the Report of the Committee on Governmental Affairs, that was filed on April 1, 1993.

There are four major lobbying disclosure laws currently in effect:

The Federal Regulation of Lobbying Act, the Foreign Agents Registration Act.

That is called FARA.

And two provisions included in the HUD Reform Act applicable to the Department of Housing and Urban Development, and the Farmers Home Administration, and section 1352 of Title 31 of the so-called FARA amendment. At least two other statutes that require registration of lobbyists are included in the Public Utility Holding Company Act and the Federal Energy Regulatory Commission Act.

Each of these statutes, the four basic statutes, imposes a different set of disclosure requirements on a specific or on a specified group of lobbyists. Because the coverage overlaps—some lobbyists may have to register under two or even three different statutes because each of the statutes excludes major segments of the lobbying community

from coverage—many professional lobbyists do not register at all. As President Clinton stated in his book ''Putting People First,'' we need legislation to ''toughen and streamline lobbying disclosure.''

First, the Lobbying Regulation Act—and I am continuing to quote from a portion of this report because it, again, identifies what the specific problems are with the current laws and will set the framework, I think, for our debate today.

The Federal Regulation of Lobbying Act enacted in 1946 requires registration by any person who is engaged for pay for the ''principal purpose'' of attempting to influence the passage or defeat of legislation in the Congress. A covered lobbyist is required to disclose his or her name and address, the name and address of the person by whom he or she is employed, and in whose interest he or she works, how much he or she is paid and by whom, who all of his or her contributors are, and how much they have given, an account of all money received and expended, to whom paid and for what purposes, the names of any publications in which he or she caused articles or editorials to be published, and the particular legislation that he or she has been hired to support or oppose, lobby registration forms are required to be filed with the clerk of the House and the Secretary of the Senate prior to engaging in lobbying and updated in the first 10 days of each calendar quarter so long as lobbying activity continues. Violation of the act is a misdemeanor, punishable by a fine of up to $5,000 or a sentence of up to 12 months. Any person convicted of this offense is prohibited from lobbying for 3 years.

The report continues, and again we are talking about the current law:

A 1986 Governmental Affairs Committee report on lobbying disclosure indicates that the lobbying act was a hastily considered law which was subject to no hearing, little committee consideration, and almost no floor debate.

And that 1986 Governmental Affairs Committee, quoted in this report, said the following:

As the staff director of the joint committee later conceded, the lobbying act was less than precisely drafted legislation. Questions arose immediately about who was covered under its definitional standards, the extent of its reporting requirements and liability under its criminal enforcement provision. Rather than settling the issue of lobbyist influence, the act served only to make things more confusing. Witnesses testified that the act was in many respects an unsatisfactory law; that its effectiveness was limited and that the provisions are in urgent need of strengthening and revision if the objectives of the framers are to be fully realized. Over the last 40 years, there have been numerous unsuccessful attempts to address problems in the lobbying act.

Now, the committee report first looks at the question of coverage of the act, and I continue to quote from this report:

The Lobbying Regulation Act covers any person who is engaged for pay for the principal purpose of attempting to influence the passage or defeat of legislation in the Congress. In United States v. Harris, in 1954, the Supreme Court ruled that a narrow construction of the act was required to avoid unconstitutional vagueness. There are several gaps in the coverage of the lobbying act as construed in the Harris case.

These include the following:

1. The act applies only to lobbying of legislative branch officials, not to lobbying of executive branch officials.

2. It covers only efforts to influence the passage or defeat of legislation in Congress, not other activities with members and staff.

3. It has been interpreted by many to cover only efforts to lobby Members of Congress directly, not efforts to lobby congressional staff.

4. It covers only persons whose principal purpose is lobbying. This language has been interpreted by many to mean that the act applies only to people who spend a majority of their time lobbying.

The report continues:

Taken together, these gaps in the coverage of the act could mean that only a lobbyist who spends a majority of his or her working time in direct contact with Members of Congress is actually required to register. For this reason, it is not surprising that many lobbyists view registration as voluntary.

Not as compulsory.

As a result, it appears that a significant number of people who engage in activities that the general public would view as lobbying do not register at all and probably are not required to do so. For example, the General Accounting Office found that almost 10,000 of the 13,500 individuals and organizations listed in the book ''Washington Representatives'' were not registered under the Lobbying Regulation Act. GAO interviewed a small sample of the unregistered Washington representatives listed and found that three-quarters contacting Members of Congress and congressional staff deal with Federal legislation and seek to influence actions of either Congress or the executive branch.

The report continues:

The rate of registration by nonprofit organizations that engage in lobbying activities does not appear to be much better. For example, the committee reviewed the lobbying registrations of 18 nonprofit organizations that reported legislative expenses in excess of $300,000 each to the Internal Revenue Service in tax year 1991 and found that half of these organizations did not have even a single active registered lobbyist in that year. The failure of these organizations and individuals to register does not mean that they are violating the law as it is written today. What it does mean is that the definition of lobbying in the Lobbying Regulation Act is so narrow and full of loopholes that few people are actually required to register.

The next issue which is addressed by this report relates to information disclosed.

The lobbying act requires ''a detailed report under oath of all money received and expended by a lobbyist'' during each calendar quarter, to whom it is paid and for what purpose. The forms expand upon this requirement by requiring reporting of specific line items of an organization's expenditures such as printed or duplicated matter, office overhead, rent, supplies, utilities, etc, telephone and telegraph, travel, food, lodging and entertainment, wages, salaries, fees and commissions, public relations and advertising. Each lobbyist is required to attach an addendum to his or her disclosure statement listing the recipient, date and amount of each such expenditure. Lobbyists who comply with this requirement file sheets of paper listing expenditures such as $45 phone bills, a $6 cab fee, a $16 messenger fee and prorated salaries, in one case for $1.31. In addition, some lobbyists provide lists of restaurants where they have paid for lunch.

Continuing to quote from this report—and in this case the quote of a statement that I made during the subcommittee hearing:

''The people who did register are giving us information which in many cases is utterly irrelevant. Here is one with a telephone bill, $98.65. Underneath that, taxi fares, zero. Why? Various carriers, no single expenditure of $10 or more. Another firm is trying to prorate salaries for us to show how they are apportioned to cover activities. Here is a salary for a young man named Graves. His prorated salary, $6.50. Someone named Young, $3.38. Someone named Horton, we are told, the United States Government is told a man named Horton was paid $1.31 in relation to lobbying activities. Just a flood of irrelevant information pours in to us. Something is basically wrong.''

And now quoting from the report again:

The disclosure record of nonprofit organizations engaging in lobbying does not appear to be much better than that of for-profit lobbying firms. The committee reviewed the lobbying registrations filed by 5 nonprofit organizations that reported nearly $5 million in lobbying income to the Internal Revenue Service in the year 1991 and found that while some of these organizations filed detailed reports under the Lobbying Regulation Act, they reported barely $200,000 in total lobbying expenditures to the Congress.

There appear to be two basic reasons for these low levels of reported expenses.

1. Despite the requirements of the Lobbying Regulations Act, many lobbyists do not appear to report income or expenses at all. At the request of the subcommittee, the General Accounting Office reviewed more than 1,000 lobbying reports filed in 1989 and learned that few lobbyists actually comply with the disclosure requirements. The GAO found that fewer than 20 percent of the lobbyists included the required attachments detailing expenditures. Almost 90 percent reported no expenditures for wages, salaries, fees or commissions, more than 95 percent reported no expenditures for public relations and advertising services, and more than 60 percent of the lobbyists reported no expenditures at all during the period covered.

2. The narrow definition of ''lobbying'' as it is used in the act means that disclosure and full compliance with the law simply is not very revealing. Since the Lobbying Regulation Act is generally considered to cover only meetings with Members of Congress, many lobbyists disclose only income and expenses directly associated with such meetings. For example, suppose that a lobbyist received $1 million from a client for 5,000 hours of work at $200 per hour.

If the 5,000 hours of work included only 10 hours of direct meetings with Members of Congress, many lobbyists would report only $2,000 in income—

That is of the million dollars that they actually got.

even if the rest of the time was spent preparing for such meetings and additional meetings with staff.

There are similar problems with the disclosure of the lobbyist activities or objectives. The registration forms require each lobbyist to ''state the general legislative interest'' to the person filing and set forth the legislative interest by citing short titles of statutes and bills, House and Senate number of bills where known, citations of statutes where known, whether for or against such statutes and bills.

While many lobbyists provide lists of specific bills of interest in each quarterly reporting period, others provide description of

their interest that are so general that they reveal virtually nothing. Like ''all operations in Congress that affect operations of the client''; like ''general legislative interest''; like ''matters pertaining to defense and military legislation''; like ''all legislation affecting the insurance industry''; like ''all legislation affecting the railroad industry.''

Overall, the General Accounting Office found that only 32 percent of the reports that they reviewed stated titles and numbers of statutes and bills that were subject to lobbying as required by the statute.

Now, a third problem that is described in this report with the current basic statute that covers the operation of lobbyists. Before I go on to that, I want to just repeat how useless some of this information is that we currently require, how the current laws perform a disservice to the country because they do not disclose what is intended to be disclosed, but how they also are useless and burdensome to the people who we need to disclose information.

How in the name of Heaven is it of any use when we are told that somebody named Graves as a pro rata expenditure of his salary was paid $6.56; someone named Young was paid $3.38 as a pro rata part of his salary to lobby Members of Congress on some issue. Someone is sitting there typing up these forms that are filed, which tell us absolutely nothing of value. Somebody has to divide someone's salary of how many minutes that person spent with a Member of Congress and figure out that person named Young had $3.38 of his salary pro rated to some meeting with the Senator from Michigan or the Senator from Mississippi.

Someone named Horton was paid $1.31, we are told in some form. This is the fault of the laws that we have kept on the books for 50 years. The minority of professional lobbyists who file disclosures are giving us that information, which is what they feel they are required to give us, which takes time to prepare and which is utterly useless information. These laws are a disservice to everybody and they have to be reformed.

This has been going on 50 years; 50 years this sham has been going on. We have tried to repair it, we have tried to reform it, we have tried to correct it, but we have failed for five decades, for one reason or another. And I am hopeful that finally today we are going to be able to pass something in the Senate which we can call true reform which is going to finally tell us in a useful way—everybody that has paid money to lobby is going to tell us what the total amount is that they are paid in useful form and on what issues they are lobbying Congress or the executive branch.

Obviously, we are leaving off people who are paying small amounts of money. I think $10,000 is going to be the threshold that we are going to use in a 6-month period. But where you pay a professional lobbyist more than that amount of money, at that point, we are going to trigger some useful information under our bill rather than to keep on the books these utterly useless laws which breed disrespect for the law in general and, where they are followed, provide the country with utterly useless information which nobody can understand or put into a useful form.

As we said at the subcommittee hearing, this is a pretty dismal picture of a law that is not functioning as a law, that has been festering on the books too long. We either ought to clean it up, make it relevant, or get rid of it, and that seems to me to be the alternative.

The second major act which applies to lobbyists is the Foreign Agents Registration Act. Again, quoting from the committee report:

This act was passed in 1938. As the Supreme Court explained in 1943, FARA was a new type of legislation adopted in the critical period before the outbreak of the war. The general purpose of the legislation was to identify agents of foreign principals who might engage in subversive acts or spreading foreign propaganda and to require them to make public record of the nature of their employment.

The committee report continues:

In 1966, in response to overly aggressive lobbying by foreign sugar companies, FARA was amended to cover a broader range of foreign activities and interests. Since that time, the focus of the act has shifted from the regulation of subversive activities to the disclosure of lobbying on behalf of foreign business interests. FARA requires any person who becomes an ''agent of a foreign principal'' to register with the Attorney General within 10 days thereafter. The term ''agent of a foreign principal'' includes, subject to certain exemption, any person who engages in political activities on behalf of a foreign government, political party, individual corporation, partnership, association or organization.

Each FARA registration statement must include, among other information, a comprehensive statement of the registrant's business, a complete list of employees and the nature of the work that they perform, the name and address of every foreign principal for whom the registrant is acting, the nature of the business of each foreign principal and the ownership and control of each and copies of each agreement with a foreign principal.

The report continues:

In addition, each registrant is required to file a supplemental disclosure statement every 6 months updating its registration and detailing all past and proposed activity on behalf of foreign principals. Supplemental statements are required to include, among other information, a detailed accounting of income and expenses and a list of all meetings with Federal officials on behalf of foreign principals.

First, the report looks at the coverage of FARA. FARA requires any person who acts ''as an agent of a foreign principal'' to register with the Attorney General and disclose his or her activities. However, broad exemptions to FARA's registration requirements appear to have resulted in spotty disclosure of foreign lobbying activities. The two most frequently cited exemptions apply to: First the practice of law in formal or informal proceedings before U.S. courts and agencies, and second, activities on behalf of a foreign-owned company in the United States that are in furtherance of bona fide commercial, industrial or financial interest of the U.S. company.

Now, the lawyers exemption. The so-called lawyers exemption to FARA exempts attorneys who provide legal representation to foreign principals in the course of established agency proceedings, whether formal or informal. This exemption was adopted because the Congress determined that disclosure under FARA serves no useful purpose in legal proceedings where full disclosure of the agent status and identity of his or her client is required. Because terms such as ''legal representation in established procedures'' are not defined in the statute or the implementing regulations, the applicability of this exemption has been left to case-by-case determinations by the Justice Department and by respective registrants themselves.

The Justice Department stated that the lawyers exemption applies only to services that can only be performed by an attorney and only in proceedings established pursuant to either statute or regulation. A letter from the Justice Department stated that ''The proceeding must be one established by the agency questioned pursuant either to statute or regulation.'' The Department interprets legal representation to include those services which could only be performed by a person within the practice by law—practicing law. However, the Justice Department was not able to identify any written guidance or other public documents which reflect its present interpretation of this issue.

Now, perhaps for this reason, the Justice Department's interpretation of the lawyers exemption does not appear to be widely known or followed by attorneys who represent foreign clients. Interviews by subcommittee staff reveal that some attorneys take the view that the lawyers exemption applies only in cases where there is a docketed case with formal appearances entered, while others believe that virtually any service that they provide falls within the exemption, even when they have extensive contacts with executive branch officials on a regulatory issue of broad impact. Experts on the statute generally agree that the scope of the exemption is not clear.

Mr. President, at this time, I ask unanimous consent that some additional pages from the committee report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

b. The ''Domestic Subsidiaries'' Exemption

The ''domestic subsidiaries'' exemption to FARA excludes from coverage any activities in the bona fide commercial, industrial or financial interests of a domestic company engaged in substantial operations in the United States, even if the company is foreign-owned and the activities also benefit the foreign parent corporation. Again, little formal guidance on the application of this exemption is available.

The Justice Department's letter to the Subcommittee states that the primary test for the applicability of the domestic subsidiaries exemption is ''whether the presence of the domestic person is real or ephemeral, in short, whether the domestic person is a viable working entity or a so-called 'front' or 'shell'.'' However, the Justice Department letter also states that the domestic subsidiaries exemption does not apply when a local subsidiary is making efforts to expand the U.S. market for foreign goods. In particular, the letter cites as definitive a passage in the legislative history which states that—

[w]here * * * the local subsidiary is concerned with U.S. legislation enlarging the U.S. market for goods produced in the country where the foreign parent is located * * * the predominant interest is foreign.''

The Justice Department interpretation has not been memorialized in published guidance and does not appear to be widely known or followed by representatives of foreign principals. Some take the position that this exemption applies to any lobbying activity on behalf of domestic subsidiaries of foreign corporations. Others believe that the issue is whether the parent corporation ''controls'' the subsidiary in such a way that it can be seen as controlling the lobbying. A third category of lobbyists argue that the exemption applies only to ''commercial'' matters such as contract awards and landing rights determinations.

The widespread confusion over the proper application of FARA exemptions and the lack of clear written guidance from the Justice Department has left broad latitude for individual representatives of foreign principals to reach their own conclusions as to whether registration is required. As one lobbyist who is registered under FARA explained:

''I can argue the commercial exemption for subsidiaries almost any way * * *. I think it is entirely up to the judgment of the registrant, or potential registrant.''

The result is spotty disclosure, and in some cases no disclosure at all, of significant lobbying activities.

For example, the Subcommittee on Oversight of Government Management reviewed a heavily lobbied 1989 effort to overturn a decision by the Customs Service regarding the tariff classification of imported jeeps and vans. Although this issue was of great importance to foreign manufacturers of sport utility vehicles and exclusively involved the treatment of imports, almost none of the lobbying activity in this case was disclosed under the Foreign Agents Registration Act.

Of the 48 people identified as lobbying Customs and/or Treasury on behalf of those who opposed the Custom decision, only six were registered under FARA. Three of the six who were registered worked for a single firm and were covered by a single registration; almost all stated that they registered out of an abundance of caution and probably were not required to do so. The reason for this nondisclosure is that virtually all lobbying against the Customs decision was viewed as exempt from coverage under FARA pursuant to either the lawyers' exemption or the domestic subsidiaries' exemption. Consequently, only a small fraction of the lobbying activities conducted on behalf of foreign companies were disclosed under FARA.

2. Disclosure Requirements

Each FARA registration statement must include, among other information, a comprehensive statement of the registrant's business, a complete list of employees and the nature of the work they perform; the name and address of every foreign principal for whom the registrant is acting; the nature of the business of each foreign principal and the ownership and control of each; and copies of each agreement with a foreign principal.

In addition, each registrant is required to file a supplement disclosure statement every six months, updating its registration and detailing all past and proposed activity on behalf of foreign principals. Like the Lobbying Regulation Act, FARA required detailed accounting of expenses such as cab fares, copying, and telexing. In addition, and unlike the Lobby Regulation Act, FARA requires a complete listing of each federal official with whom the registrant has met during the reporting period.

The Justice Department interprets FARA's disclosure provisions to require that registrants detail even activities unrelated to their registrations—such as providing advice or legal representation on matters that would not otherwise require registration. This means that engaging in even a single ''registrable'' activity exposes the entire scope of a registrant's activities to public disclosure requirements.

As a Justice Department representative explained at the Subcommittee's hearing—

''Senator LEVIN. So if you have one contact with a Government official and have to register, you then have to disclose everything that you do for that principal even though all those other activities would not cause you to have to register * * *?

''Mr. CLARKSON. If you have one contact that is of a registrable nature, yes, you would have to register and then you would disclose your activities.

''Senator LEVIN. [Then] you agree with the interpretation that you have to disclose all hundred [activities] even though only one of them required you to register?

''Mr. CLARKSON. We not only agree with it, that has been our practice. I have no problem with that.''

Perhaps because the FARA disclosure requirements are so extensive, the General Accounting Office has found that half of the registered foreign agents do not fully disclose their activities on behalf of foreign principals and more than half fail to meet statutory filing deadlines. The deficiencies identified by GAO included conflicting responses to questions, failures to list contacts with government officials, failures to disclose finances, and failures to include supplemental statements as required.

3. The Administration of the Statute

The Department of Justice enforces FARA largely by sending letters and making phone calls to registrants and potential registrants. The chief of the Department's Registration Unit estimates that about seven or eight formal notices of deficiency were sent out from 1988 to 1991. This compares to 62 deficiency notices sent out by the Department over a similar three-year period in the early 1970's.

The Department has both criminal and civil injunctive enforcement authority under the statute. However, the statute does not authorize either civil monetary penalties or administrative fines. As a result, a few court cases, either civil or criminal, have ever been initiated under the Act. The Justice Department initiated about ten cases in the 1970's, but did not file any in the 1980's.

The Registration Unit also conducts inspections to review the files of registrants and make sure that they have accurately disclosed their activities. Inspections are conducted on a nonconfrontational basis: they are always announced in advance, and some registrants are given an opportunity to amend their filings prior to the inspection.

In 1989, the Registration Unit conducted 14 inspections; in 1990, only four inspections were conducted. These numbers are down substantially from the mid-seventies, when the Unit conducted 166 inspections in a period of a year and a half and announced its intention to inspect every registered foreign agent within a period of three years.

Six of the inspections conducted in 1989 and 1990 were of lawyer-lobbyists or other firms engaged in lobbying-type activities. Several of these inspections identified significant deficiencies in the lobbyists' registrations. For example, one inspection report indicates that the registrant had routinely filed disclosure statements which noted only that the firm provided ''legal representation'' for its numerous foreign principals. The registrant failed to indicate that it was involved in extensive lobbying activities, or to disclose the numerous federal officials who were contacted in connection with these activities.

In a second case, a registrant failed to disclose meetings with dozens of federal officials, despite the fact that these meetings were listed in its client billing documents. The undisclosed contacts included meetings with the Secretary of Commerce, the Deputy Attorney General, the Deputy Secretary of Defense, the Deputy Secretary of State, the U.S. Trade Representative, and several Members of Congress. The registrant also failed to disclose almost $200,000 in income and expenses on behalf of its foreign principals.

In neither of these cases did the Department of Justice seek to sanction the registrant. In each case, the registrant was simply asked to amend its registration statement to provide the missing details.

By contrast, other inspection reports identify dozens of so-called deficiencies that are of questionable significance at best. For example, one report indicates that the registrant accurately identified dozens of meetings with federal officials, but failed to report such activities as suggesting themes for a visiting foreign leader to address in a speech to the U.N. and sending a thank-you note to a federal official after a meeting (the meeting itself was disclosed). The remedy in this case was the same as in the case of the firm that failed to disclose meetings with the Deputy Secretaries of State and Defense: the registrant was required to amend its registration statements.

While those who register under the Act are subject to routine Justice Department inspection of their books and records, those who do not register are not subject to any review of their records short of a criminal investigation. In one instance reviewed by the staff, an attorney for leaders of the Cali (Colombian) drug cartel was reported to have lobbied the Senate Foreign Relations Committee staff and State Department officials, proposing amendments to international treaties that would make it harder to extradite foreign drug kingpins to the United States—without registering under FARA.

When the Justice Department's Registration Unit inquired as to why the attorney had not registered, the attorney told them that he had engaged in lobbying activities in his personal capacity, out of general interest in the treaties, and not in his capacity as an attorney for cartel members. Because the Justice Department did not have the authority to investigate further without initiating a criminal case, it did not inquire further into the matter.

In short, the incentive for representatives of foreign interests to avoid the burdens of registration under FARA is exacerbated by the Justice Department's apparent inability to investigate those who are not registered. While those who register under the Act are required to make extensive disclosure of all registrable and unregistrable activity and are subject to Justice Department inspection

of their books and records to verify the information disclosed, those who do not register are not subject to any review of their records short of a criminal investigation.

As Senator Cohen concluded at the Subcommittee hearings on FARA, the statute is plagued with problems:

''The broad exemptions contained in the Act appear to permit significant lobbying efforts on behalf of foreign companies to go undisclosed * * *. There appears to be genuine wide-spread confusion and disagreement concerning the breadth of these exemptions * * *. There is also considerable confusion and an absence of specific guidance as to what information is required to be disclosed by those agents who do in fact register * * *. There may also have been instances where the Department of Justice has failed to impose sanctions in cases of serious violations, while at the same time devoting significant department resources to require agents to amend their statements to include minor and irrelevant facts.''

C. THE BYRD AMENDMENT AND THE HUD DISCLOSURE LAWS

The Byrd Amendment, which was enacted in October 1989 as a part of an Interior Appropriations bill, is codified at 31 U.S.C. 1352.

The Byrd Amendment prohibits the expenditure of appropriated funds to influence the award of a contract, grant, or loan. Subject to certain exceptions, any payment for such lobbying out of non-appropriated funds must be disclosed by the recipient of the contract, grant, or loan. The recipient is required to disclose the name and address of each person paid to influence the award, the amount of the payment, and the activity for which the person was paid. Regulations implementing the Byrd Amendment require the disclosure of each contact made with a federal official to influence the award of the contract, grant, or loan.

This disclosure must be filed with the awarding agency at the time the contract, grant, or loan is requested or received. Each agency head is required to compile the information collected and submit it to the Secretary of the Senate and the Clerk of the House twice a year, on May 31 and November 30, Failure to file a disclosure form is subject to a civil penalty of $10,000 to $100,000, to be levied under the procedures of the Program Fraud Civil Remedies Act.

Section 112, of the HUD Reform Act, which was enacted in December 1989, two months after the Byrd Amendment, is codified at 42 U.S.C. 3537b. This provision, like the Byrd Amendment, imposes disclosure requirements on people who make expenditures to influence the decisions of HUD employees with respect to the award of contracts, grants, or loans. Section 112 goes beyond the Byrd Amendment by covering any other HUD management actions that affect the conditions or status of HUD assistance, and by requiring disclosure by lobbyists as well as clients.

Section 112 required disclosure of the income and expenses of lobbyists, to whom the money was paid, and for what purposes. Section 112, unlike the Byrd Amendment, does not require the disclosure of specific contacts with federal officials. Knowing failures to disclose under the HUD law are subject to civil monetary penalties of up to $10,000 or the amount of the payment to the consultant, whichever is greater. Any person on whom a civil monetary penalty is imposed is barred from receiving any payment in connection with an application for HUD contracts, grants or loans for a period of three years.

Section 401 of the HUD Reform Act, codified at 42 U.S.C. 1490p, creates a slightly different set of disclosure requirements for persons attempting to influence financial assistance awarded by the Farmers Home Administration. Under Section 401, lobbyists are required to register and disclose their name and address, the nature and duration of any previous federal employment, and the name of their clients. They are then required to file, on a quarterly basis, a detailed report of all money received and expended, persons to whom payments were made, and any contacts with federal employees for the purpose of attempting to influence any award or allocation of assistance.

The penalties for violating Section 401 include the rescission of the assistance, the debarment of the violator, and a civil penalty of up to $100,000 in the case of an individual or $1,000,000 in the case of an applicant other than an individual. Despite these strong penalties, the provision is so little known that the Department of Agriculture failed to identify it in response to a CRS request to identify any statute requiring persons representing private interests before the Department to register or otherwise disclose their lobbying activities and or contacts with agency officials.

The Byrd Amendment and the HUD disclosure provisions were enacted in response to scandals at the Department of Housing and Urban Development. According to published reports, top HUD officials in the Reagan administration awarded large discretionary grants to developer who retained well-connected and favored consultants as lobbyists. At House hearings on the scandal in 1989, one of these lobbyists agreed that the work he did could be described as ''influence peddling''.

Mr. LEVIN. Mr. President, the Lobbying Disclosure Act of 1995—this is the bill in front of us today—will end the chaos, close the loopholes, and fix the badly broken current system.

The bill before us today will ensure that we finally know who is paying, how much, to whom, to lobby Congress and the executive branch.

This bill would cover all professional lobbyists, whether they are lawyers or nonlawyers, in-house or independent, whether they lobby Congress or the executive branch, or whether their clients are for-profit or nonprofit. The bill is not intended to, and should not, create any significant new paperwork burdens on the private sector. Indeed, it would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and in a single location, instead of the multiple filings that are required under current laws. Our bill would replace quarterly reports with semiannual reports. It would authorize the development of computer filing systems and simplify forms.

Our bill would substantially reduce paperwork burdens associated with lobbying registration by requiring a single registration by each organization whose employees lobby, instead of separate registration by each employee lobbyist. The names of the employee lobbyists, and any high-ranking Government position in which they served the previous 2 years, would simply be listed in the employer's registration form. Our bill would simplify reporting of receipts and expenditures by substituting estimates of the total, bottom-line lobbying income by category of dollar value, like the forms that Members of Congress use for disclosure.

They would substitute those estimates for the current requirement to provide 29 separate lines of financial information, with supporting data—most of it meaningless. To further ensure that the statute will not needlessly impose new burdens on the private sector, the bill includes specific provisions allowing entities that are already required to account for lobbying expenditures under the Internal Revenue Code to use the same data collected for the IRS for our disclosure purposes as well.

The bill also includes de minimis rules to ensure that small organizations and other entities located outside Washington will be exempt from registration, even if their employees make occasional contacts. As the bill is written, it would exempt from registration any individual who spends less than 10 percent of his or her time on lobbying activities and any organization whose lobbying expenditures do not exceed $5,000 in a semiannual period.

We intend to offer an amendment to increase those thresholds to 20 percent and $10,000 respectively, to ensure that we do not place unreasonable burdens on individuals and organizations that are not professional lobbyists.

In short, we have exempted small organizations from registration requirements, as long as those paid lobbying activities are minimal. We have carefully avoided imposing any burden at all on citizens who are not professional lobbyists but who merely contact the Federal Government to express their personal views.

Now, the so-called grassroots lobbying provision in last year's conference report, to which some objected in the last Congress, are not in the bill before us today. They were not in the original Senate bill last year. They were added in the House, or modified and accepted in conference—without much opposition, by the way. In fact, I do not think there was any opposition in the conference. But what we have returned to is the original Senate provisions on these points, as they were adopted by the Senate last year.

In particular, this bill deletes definitions of grassroots communications, deletes requirements to disclose persons paid to conduct grassroots lobbying communication, deletes the requirement to separately disclose grassroots lobbying expenses, deletes the requirement to disclose if someone other than the client pays for the lobbying activities, and deletes all references to individual members of a coalition or association as clients.

Let me just repeat that, because this became such a contentious issue last year. The grassroots provisions, which were in the conference report, and which became the subject of so much contention on the Senate floor here last fall, are not in this bill, just the way they were not in the Senate bill as

it originally passed the Senate last year.

Now, there have been a number of other concerns raised about our bill. We are going to be offering an amendment later on to address some of these concerns.

First, we are going to further reaffirm that the bill does not cover grassroots lobbying by adding a specific statement that lobbying ''does not include grassroots communications or other communications by volunteers who express their own views on an issue.'' That is the first part of the amendment. Just to make it absolutely clear that we are not trying to, in any way, cover communications by people who are expressing their own views on an issue, we are going to make that express statement to address any lingering concern that people have in that area.

Second, our amendment will address concerns that the bill might reach small groups and local organizations that engage in only incidental lobbying. We want to assure people that we are not trying to reach the small group, the local organization, who pay someone to lobby, or who spend money on paid lobbying activities, but whereas only incidental lobbying.

What we are doing is increasing the amount of time—the threshold—we are increasing the amount of time that must be spent on lobbying to be considered a lobbyist. We are increasing that from 10 to 20 percent of a person's time over a 6-month period.

What that means is a person would now have to spend more than 5 weeks lobbying full-time in a 6-month period to be considered a lobbyist. And we are increasing the exemption for small organizations that spend minimal dollar amounts on lobbying, we are increasing that amount from $5,000 to $10,000 in a 6-month period, and we are specifying that multiple lobbying contacts are required for a person to be considered a lobbyist.

In addition, our amendment is going to address concerns about an independent agency being created to administrator and enforce this act. This concern is that somehow or another that an independent agency could become a rogue bureaucracy and could impair first amendment rights.

What we are doing in our amendment is eliminating the provision that establishes the new agency. We are going to entrust all filing requirements to the Secretary of the Senate and the Clerk of the House of Representatives who handle them now. We are going to permit the executive branch to provide guidance to potential registrants on how to comply through the Office of Government Ethics, but not giving that agency any investigative or enforcement power responsibility.

We are eliminating the enforcement provisions of the bill altogether and replacing them with a simple provision, providing a civil monetary penalty for violations, and we are reducing the maximum penalty for violation from $100,000 to $50,000.

In addition, the amount would lengthen the period of time for filing registrations and reports from 30 days to 45 days. We will permit nonprofit others to file duplicate copies of the IRS form 990 in lieu of disclosure of dollars spent on lobbying under the bill. We will clarify that written materials provided in response to a specific request do not count as lobbying, regardless of whether the request is oral or written.

These amendments, a series of changes which we will make in our own bill by amendment, should remove concerns that the bill could impose registration and reporting requirements on organizations that engage in only incidental lobbying. We are removing the independent agency. We will address the concern that we are empowering an executive branch agency to audit investigative review, sensitive lobbying communications or deter citizens from exercising their first amendment rights through arbitrary or selective enforcement.

At the same time, we are making these changes to address those concerns, we are going to leave intact the heart of the bill, which plugs loopholes in the current lobbying disclosure laws and ensures all professional lobbyists have to register and report who is paying them, how much, to lobby Congress and the executive branch, on what issue.

We are going to require that if our bill passes, regardless of whether or not the paid lobbyist is a lawyer or a nonlawyer, whether or not the client is profit or nonprofit, and whether or not the lobbyist is an in-house lobbyist or a lobbying firm.

Mr. President, while we want to avoid unnecessary burdens on the private sector, we must ensure that the public gets basic information on that critical point—who is paying who, how much to lobby Congress, and the executive branch, and on what issue.

We will oppose any effort to eliminate important disclosure requirements or to exclude coverage of lobbying on certain types of issues or to limit disclosure to legislative branch lobbying, or to raise the thresholds in the bill to unrealistically high levels.

In the last Congress, the Lobbying Diagnosis Closure Act was adopted by the Senate by a 95-to-2 vote. A conference report was then passed by the House and sent to the Senate for final consideration.

Unfortunately, objections to certain provisions related to grassroots lobbying made it impossible to enact the bill at that time. Those provisions are not in this version, just as they were not in the Senate bill when this bill passed the Senate last year.

The fact is, 95 Members of this body are on record as favoring a strong lobbying disclosure bill. Mr. President, there was a recent public opinion poll, 1993, a little over a year ago, where voters were asked who wields the real power in Washington. The answers should energize Members to act. The answer in that public opinion poll was—and again, the question, who has the real power in Washington?—7 percent said the President; 22 percent said Congress; 50 percent said lobbyists. Mr. President, 50 percent of the American people feel that lobbyists wield the real power in Washington—more than twice as many as feel that we bear the real power and have the real power in Washington, and over 7 times as many as feel that President Clinton has the real power in Washington.

Lobbying disclosure is one of three pillars of reform. If we are serious about increasing public confidence in this democratic Government, we have to address at least three fundamental issues. One is lobbying disclosure. That is before the Senate in this first bill. Second, is gifts. That will come before the Senate in the next bill we take up. The third is campaign finance reform.

Mr. President, I indicated that we have an amendment which will make a number of changes. Before I send that amendment to the desk I want to repeat them, because they address issues which have been raised and which are, I believe, important to all Members of this body.

The first provision of this amendment will reaffirm that the bill does not cover grassroots lobbying by adding the specific statement that lobbying does not include grassroots lobbying communications or other communications by volunteers who express their own views on an issue.

The amendment that we will offer also makes it clear that we are not reaching small groups and local organizations that engage in only incidental lobbying. We are doing that by increasing the amount of time that a person must spend lobbying, paid to lobby, from 10 to 20 percent of that person's time during the reporting period, and we are increasing the exemption for small organizations that spend minimal dollar amounts on lobbying from $5,000 to $10,000 during that 6-month period.

Also, we are specifying that multiple lobbying contacts are required for a person to be considered a lobbyist—a single lobbying contact does not count. All three of those must exist before the person fits the definition of a lobbyist.

We are also addressing the concerns about the creation of an independent agency to administrator and enforce the act by eliminating the provisions creating that agency. We are doing a number of additional things in this amendment, as I indicated in my prior description of the amendment.

AMENDMENT NO. 1836

Mr. LEVIN. With that, I send an amendment to the desk on behalf of myself and Senator COHEN and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan, [Mr. LEVIN] for himself and Mr. COHEN, proposes an amendment numbered 1836.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

On page 5, line 9, strike paragraphs (5) and renumber accordingly.

On page 6, line 5, strike ''Lobbying activities also include efforts to stimulate grassroots lobbying'' and all that follows through the end of the paragraph and insert in lieu thereof the following:

''Lobbying activities do not include grassroots lobbying communications or other communications by volunteers who express their own views on an issue, but do include paid efforts, by the employees or contractors of a person who is otherwise required to register, to stimulate such communications in support of lobbying contacts by a registered lobbyists.''

On page 8, line 11, strike ''that is widely distributed to the public'' and insert ''that is distributed and made available to the public

On page 9, line 11, strike ''a written request'' and insert ''an oral or written request''.

On page 13, line 15, strike ''1 or more lobbying contacts'' and insert ''more than one lobbying contact''.

On page 13, line 17, strike ''10 percent of the time engaged in the services provided by such individual to that client'' and insert ''20 percent of the time engaged in the services provided by such individual to that client over a six month period''.

On page 16, line 3, strike ''30 days'' and insert ''45 days''.

On page 16, line 8, strike ''the Office of Lobbying Registration and Public Disclosure'' and insert ''the Secretary of the Senate and the Clerk of the House of Representatives''.

On page 16, line 23, strike ''$2,500'' and insert ''$5,000''.

On page 17, line 2, strike ''$5,000'' and insert ''$10,000''.

On page 17, line 22, strike ''shall be in such form as the Director shall prescribe by regulation and''.

On page 18, line 10, strike ''$5,000'' and insert ''$10,000''.

On page 18, line 19, strike ''$5,000'' and insert ''$10,000''.

On page 20, line 18, strike ''the Director'' and insert ''the Secretary of the Senate and the Clerk of the House of Representatives''.

On page 20, line 21, strike ''30 days'' and insert ''45 days''.

On page 21, line 1, strike ''the Office of Lobbying Registration and Public Disclosure'' and insert ''the Secretary of the Senate and the Clerk of the House of Representatives''.

On page 21, line 12, strike ''$2,500'' and insert ''$5,000''.

On page 21, line 17, strike ''$5,000'' and insert ''$10,000''.

On page 21, line 23, strike ''the Director in such form as the Director may prescribe'' and insert ''the Secretary of the Senate and the Clerk of the House of Representatives''.

On page 22, line 6, strike ''shall be in such form as the Director shall prescribe by regulation and''

On page 23, line 20, strike subsection (c) and insert lieu thereof the following:

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

''(1) Estimates of amounts in excess of $10,000 shall be rounded to the nearest $20,000.

''(2) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses totaled less than $10,000 for the reporting period.

''(3) A registrant that reports lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may satisfy the requirement to report income or expenses by filing with the Secretary of the Senate and the Clerk of the House of Representatives a copy of the form filed in accordance with section 6033(b)(8).''

On page 25, line 24, strike subsection (e).

On page 31, line 1 and all that follows through line 17 on page 47, and insert in lieu there of the following:

''SEC. 7. DISCLOSURE AND ENFORCEMENT.

''(a) The Director of the Office of Government Ethics shall—

(1) provide guidance and assistance on the registration and reporting requirements of this Act; and

''(2) after consultation with the Secretary of the Senate and the Clerk of the House of Representatives, develop common standards, rules, and procedures for compliance with this Act.

''(b) The Secretary of the Senate and the Clerk of the House of Representatives shall—

''(1) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;

''(2) develop filing, coding, and cross-indexing systems to carry out the purpose of this Act, 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 minimize public access to materials filed under this Act;

''(3) ensure that the computer systems developed pursuant to paragraph (2) are compatible with computer systems developed and maintained by the Federal Election Commission, and information filed in the two systems can be readily cross-referenced;

''(4) make available for public inspection and copying at reasonable times the registrations and reports filed under this Act;

''(5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;

''(6) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

''(7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this Act; and

''(8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this Act, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (6).

''SEC. 7. PENALTIES.

''Whoever knowingly fails to—

''(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

''(2) comply with any other provision of this Act; shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.''

On page 48, line, strike ''the Director or''.

On page 48, line 9, strike ''the Director'' and insert ''the Secretary of the Senate or the Clerk of the House of Representatives''.

On page 54, line 9, strike Section 18.

On page 55, line 23, strike Section 20.

On page 58, line 5, strike ''the Director'' and insert ''the Secretary of the Senate and the Clerk of the House of Representatives''.

On page 59, strike line 3 and all that follows through the end of the bill, and insert in lieu thereof the following:

''SEC. 22. EFFECTIVE DATES.

''(a) Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on January 1, 1997.

''(b) The repeals and amendments made under sections 13, 14, 15, and 16 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 Act 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.''

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, as I said earlier this morning, I think it is important to point out again that every Senator on both sides of the aisle agrees that there needs to be lobbying reform. There are a number of changes that can be made that are long overdue, as a matter of fact. Unfortunately, in past years these issues have been bogged down by crowded schedules, sometimes partisan politics, sometimes misunderstandings. But for whatever reason, it has not been done. I think we have a chance to accomplish that today, and we intend to work together in a bipartisan effort to accomplish that goal.

I do want to point out at the beginning, the majority leader, Senator DOLE, to help facilitate this effort, did create a Bipartisan Senate Gift and Lobbying Reform Task Force to study these issues and develop proposals for reform. The leader set up this task force at a time when most Members were skeptical that anything could really successfully be crafted as a compromise.

I am pleased to report that the task force has met, we have had a lot of discussions, and I think significant progress on the issue of lobbying reform has been accomplished and we are moving toward a bipartisan bill. I specifically would refer to several of the points the Senator from Michigan has just noted, the proposals that are included in the amendment he just sent to the desk.

He changes the language with regard to grassroots lobbying efforts and adds additional guarantees and clarification that this is not intended to and will

not in any way chill the efforts of our citizens and our constituents who come to Washington to try to seek redress from the Government to contact their Senators. That is a very important change from last year.

We can go back and think again about the history of how we got that language in the bill last year. Last year it was added in conference. Members originally, I think, did not object to it because they had not really had a chance to assess what the ramifications might be, but, as Senators started looking into it, their concerns grew. But that has been clarified and will not be a problem here today.

Also, changes have been made with regard to incidental lobbying that I think are very important. Some people will have occasion just to make an indirect, maybe one-time contact with a Senator or staffer that could qualify as incidental, and that would have language that would address that concern.

I think it is important that the threshold in this compromise alternative is being raised. I believe the language that was in the original bill was at $2,500 for an individual lobbyist. I believe that was too low. Some significant movement has been made in that area. The penalty, while we feel if there is a blatant or repeated violation of the disclosure rules there should be an opportunity for some maximum penalty, I think it was excessive in the original Levin bill. Also, to increase the filing period from 30 to 45 days just makes fundamental good sense—gives them time, at least, to comply with the filing requirements.

So I think all of those are very positive movements, and I think we will be able, hopefully, to narrow areas where we need discussion down even further very shortly.

Before I delve into the details of some of the task force work, I would also like to begin by commending the members of the task force for their time. The Senate minority whip, Wendell Ford—Senator FORD from Kentucky has been very helpful in cochairing this task force. The Senator from Kentucky, Senator MCCONNELL, who has for a long time been interested in serious lobbying reform, has assisted the efforts and, as chairman of the Ethics Committee, has been very involved. The chairman of the Rules Committee, Senator STEVENS; Senator ASHCROFT; Senator BREAUX; Senator COHEN; Senator DODD; Senator FEINGOLD; Senator LAUTENBERG; Senator LEVIN; Senator REID; Senator ROCKEFELLER; Senator SIMPSON; and Senator WELLSTONE have all been involved in this effort.

As I noted, we have made significant progress in the lobby area. It does not appear that as much progress has been made in the gift-rule area. That will come up next. But we will continue to work on that also throughout the day.

Last month, when the Senate Lobbying Reform Task Force was created, we started to have these conversations that have led to some agreements. I think we have reached some changes that will lead us to sound policy, not just political sound bites. We want to continue to work in that area.

But the task force has identified some areas that we still are very much concerned about and we want to work on. One of those is the definition of a lobbyist. The definition of a lobbyist—it is very important that we have a clear understanding of that. The original bill was, I think, way too broad and would have required a constituent back home, who maybe would have only come to Washington once a year, to register as a lobbyist. We feared this might be a deterrent to some constituents to actually doing what they might be entitled to under the Constitution. To avoid this situation, we have already reached an agreement on two significant changes in this area of definition of a lobbyist.

First, I believe both sides of the aisle have agreed to increase the percentage of time an individual must spend lobbying to be considered a lobbyist from 10 to 20 percent. Second, we are in the process of negotiating changes in the level of compensation a lobbying firm or organization must receive in order to be required to register. The original bill, as I noted, only exempted firms receiving under $2,500, and organizations receiving under $5,000 for other organizations. The level is clearly too low. While this level might be appropriate under current law where lobbyists are only required to report contacts made with actual Members, the compromise we are working on would go beyond that, and I think we need to change the levels that are involved. We are talking about maybe even the involvement of contact with staff. So we are discussing a change of those limits even more. I do not think we have reached a final agreement, but we are getting closer.

It is very important we do not begin this process by finding a way to create a new, additional Federal agency, as was originally included in this bill. I feel particularly strongly about that. To set up another organization with more people being employed at the Justice Department really is just not called for. I understand Senator LEVIN has agreed we would change that. And it would require that lobbyists register with the Clerk of the House or the Secretary of the Senate within 45 days of their first lobbying contact. That is a major movement.

We should not create this new agency at the Justice Department or anywhere else. We should continue, basically, with the reporting receptacle that we have now, and they will be able to deal with it because I do not think there is going to be a great expansion in the number of filings. But we will just have to see how that will work out.

There is one other point we continue to have disagreement on, and that is whether or not the executive branch should be included. The original Levin bill also included lobbying of the executive branch, and while this may or may not be a desirable goal, we are concerned about including coverage of the executive branch.

The President has the authority to require lobbying disclosure by Executive order, if he wishes to do so. The President recently created a Lobbying Reform Task Force with the Speaker of the House, and their efforts may have some recommendations later on to change the coverage. But I think we should not preempt that.

Let us make this applicable to the legislative branch. That is where we work. That is what we are really trying to deal with. There will be other processes and other ways that you can deal with whether or not the executive branch should be covered.

So I know that Senator LEVIN and others have been working on this a long time. Senator MCCONNELL I see is on the floor and will want to comment.

I am very pleased that the majority leader went ahead and scheduled this early in the week rather than late in the week where this legislation might have been in a crunch with other legislation. We can consider it today, and hopefully come to a conclusion before the day is out on at least lobbying reform. And then we will see what we can do on gift reform.

Mr. President, in view of the fact that Senator MCCONNELL is here, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, let me thank my good friend, the majority whip, for the effort he has made to move this issue along. I think all of are us are grateful to him for his leadership.

I also want to commend the Senator from Michigan, Senator LEVIN, for coming a long way, it seems to me, in the proper direction with the latest alternative which he has suggested.

Mr. President, I think it is important to remember what the fundamental issue before us is. The Constitution of the United States gives to each American citizen the right to petition the Congress. And the courts have held that there is no distinction among those who petition the Congress and are not paid to do so and those who petition the Congress and are paid to do so. In other words, a citizen does not waive his or her constitutional rights simply because they are paid to represent a group that does not have the time to come to Washington and do the job themselves.

So there is no constitutional distinction between lobbyists and nonlobbyists when it comes to the protective constitutional right to petition the Congress. That is at the heart of this debate. Of course, the surface appeal facing lobbyists is overwhelming. But the Constitution is designed to protect the individual.

So what we are seeking to achieve here, I think as the majority whip

pointed out there is a good chance we may well achieve it, is a consensus effort here to strengthen the lobby laws but not to discourage people from exercising their constitutional rights.

I might say, at least as far as this Senator is concerned, that it seems appropriate, as we look to require further disclosure from lobbyists, that we consider not exempting those who lobby for the nonprofit sector and that we consider not exempting those who lobby for the Government sector. There are governments, State, and local governments, and even arguably divisions in each part of the Federal Government, the so-called legislative affairs offices of each Cabinet at the Federal Government, that are also seeking to influence us and to push us in the direction arguably of expanding the Government; or to spend more money on Government programs.

One of the things I hope we can take a look at in the course of this debate is whether or not the distinction between those who lobby for the private sector and those who lobby for the Government sector or the nonprofit sector is a valid distinction. Why is it that one kind of activity designed arguably to promote the free enterprise system is somehow suspect and another kind of lobbying activity to promote the expansion of Government is somehow not suspect? So one of the things we will be discussing in the course of this debate is whether that is an appropriate distinction.

But, Mr. President, my friend from Arizona is here. He is prepared to offer an amendment which I personally believe, having talked with him about it, is a good amendment. I will not speak any longer at this point. I am going to make an opening statement later this morning.

But I want to commend the Senator from Michigan for the movement that he has made. I think we are moving in the direction of coming together here and passing a landmark piece of legislation.

So with those opening observations, Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank both the Senator from Michigan and the Senator from Kentucky. I realize the volatility of this issue. I realize the difficulty involved in it. There is no doubt that there are very strong arguments on both sides.

Mr. President, I say to my friend from Michigan—and I intend to do this later in the day—but I believe that one of the reasons there is such a diversity of view here is that there is not a defining standard as to what is expected in the way of gift rules.

I remember quite a few years ago when there were some very stringent gift rules enacted for the executive branch. I think the Senator from Michigan remembers, as I do, that there was great gnashing of the teeth on how it would not work, and that it would be impossible to enforce, et cetera. But it has worked.

I urge both my colleagues to look at the rules as far as gifts are concerned that apply to the executive branch of Government. It has worked. It is fair. I have not heard, at least in recent years, inordinate complaints that it is an unworkable situation. Very frankly, the gift ban as it exists today as far as the executive branch, it seems to me should apply to the legislative branch. The members of the executive branch are subject to the same lobbying, and the same influences because decisions of enormous consequence are made in the executive branch.

I look at the Defense Department and see that multibillion-dollar decisions are made in the executive branch which have frankly very little input from time to time from the legislative branch. Yet, I believe it was back in the 1970's, that a very stringent gift rule was enacted in order to cure some of the problems that existed in the executive branch, and those seem to be working today.

Very fundamentally, Mr. President, these gift bans are $20 and $50 aggregated. As far as the gift limit is concerned, gifts of $20 or less are allowable, with an aggregate limit of $50 from any one source in any given calendar year. There is no difference between in State and out State, difference for lobbyists versus nonlobbyist, and a Member must document all gifts received and make such information available every 6 months. The definition of a gift would be basically the same as is being proposed but it would be expanded to include meals and entertainment.

As far as charitable events are concerned, payment of meals, if the staff member participates in a meal or dinner event. Exemptions would be that there is no difference between in State and out of State, and no difference between lobbyists and nonlobbyists. Meals up to $20 from any source would be allowed. Meals of any value may be accepted from charitable organizations if the Member attends an event sponsored by a charity, and substantially participates in those activities.

Finally, if there is entertainment associated with a Member's trip, these should be paid for by the Member if the value exceeds the gift level ceiling.

Again, since there seems to be significant differences between both sides of the aisle, I would urge my colleagues to go back and look at the rules that pertain to the executive branch of Government which have worked now for nearly 20 years. And I would suggest that would be a very important place we could begin, and perhaps reach some agreement here before we consume the entire week with debate on this obviously very emotional issue.

Mr. President, I ask unanimous consent to lay aside the pending amendment in order to propose an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1837

(Purpose: To repeal the Ramspeck Act)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1837.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . REPEAL OF THE RAMSPECK ACT.

(a) REPEAL.—Subsection (c) of section 3304 of title 5, United States Code, is repealed.

(b) REDESIGNATION.—Subsection (d) of section 3304 of title 5, United States Code, is redesignated as subsection (c).

(c) EFFECTIVE DATE.—The repeal and amendment made by this section shall take effect 2 years after the date of the enactment of this Act.

Mr. MCCAIN. Mr. President, this amendment basically repeals the Ramspeck Act, the act, which as I understand, was enacted around 1940. It provides an unequal playing field for those members of staff in Congress who have worked here. It is obsolete and unfair. The time has come to terminate it.

It provides exclusive privileges to legislative and judicial branch employees attempting to secure career civil service positions within the Federal Government. The Ramspeck Act makes a special exception to certain competitive requirements of civil service positions for individuals who have served 3 years in the legislative branch or 4 years in the judicial branch.

Under this act, legislative branch employees are given competitive status for direct appointment to a civil service position if they are involuntarily separated from their job, and they are allowed 1 year from their date of separation in which to exercise this privilege. Furthermore, the Ramspeck Act waives any competitive examination which ranks applicants for jobs for individuals who are former legislative or judicial branch employees. Therefore, if a competitive exam is given to rank candidates for a certain civil service position, a select group of contestants are permitted by the Ramspeck Act to effectively skip a hurdle, yet they are assured of being able to be selected for the job.

Finally, individuals appointed under that act become career employees in the civil service without regard to the tenure of service requirements that exist for other civil service employees. Most people who have successfully competed for a position within the civil service must then serve a 3-year probationary period before they achieve career status with their agency. Ramspeck appointees, however, are

afforded with career status immediately.

Mr. President, I wish to point out very clearly the amendment will have no impact on any former Senate or House employee who lost their job in the last election. I think it is very important that we point that out. The results of this last November's election caused a very large number of involuntary job losses among legislative employees from the other side of the aisle. Republican staffers have utilized their eligibility under the Ramspeck Act to gain preference as have others, so this amendment would not be enforced for 2 years in order to allow those individuals who were displaced by last year's election to have the same opportunity that others have had for the last 40 years.

Mr. President, not only is the act itself very wrong but there have been several cases that have really been egregious. The GAO issued a report in May of 1994 concerning the Ramspeck Act, and they were able to come up with several examples of how really egregious some of the individuals have been in taking advantage of this legislation.

They point out a case, and I quote from page 63 of the GAO report:

The individual reestablished her Ramspeck eligibility by returning to Congress after 9 years and 11 months and remaining in the position for 5 days.

Mr. President, what that means is the individual had left her employment here in the Congress, had been gone for 9 years and 11 months, returned to work for a Member of Congress for 5 days and thereby reestablished eligibility and then obtained a job with the Department of the Interior.

The individual's qualifying employment had been obtained in Congress from 1975 to 1982. After positions both in and out of Government, she accepted a noncareer schedule C position with the Department of Interior in October 1991. On November 6, 1992, after making inquiries about her Ramspeck Act eligibility and noncompetitive career appointment opportunities at the Department of Interior, the individual resigned from her noncareer position with the Department of Interior. On the same day, DOI approved a new career position to which the individual was subsequently appointed. She began work for a congressional committee on November 9, 1992, knowing that it was a 1-week special project. On November 10, she applied for and on November 12 was approved for a noncompetitive appointment to the new career position at the Department of Interior under the Ramspeck authority. The appointment became effective on November 16.

Another case:

The individual reestablished his Ramspeck eligibility by returning to congressional employment after 4 years and remaining in a position for 8 days with a Congressman who had not been reelected. The individual had worked in Congress from 1967 to 1989. He then held a noncareer SES appointment at the Department of Interior until he resigned on November 30, 1992. At the time of his resignation, he was earning $112,100 per year. On December 1, 1992, the individual returned to a position on the staff of a Member of Congress. The position paid $1,200 per year. The following day, the individual obtained the Member certification that he would be involuntarily separated because the Member had not been reelected. Therefore, the individual would be eligible for a noncompetitive career appointment under the Ramspeck Act. On December 3, the individual applied for a new career position at the Department of Interior. DOI created the position on November 24 and on the same day requested, authorized and approved a personnel action to appoint the individual noncompetitively under the Ramspeck Act to the new position. All this took place days before the individual had resigned from his noncareer position.

Another case:

The individual established her Ramspeck eligibility by returning to congressional appointment after 5 years and 7 months and remaining in the position for 12 days. The individual, who had worked in Congress from 1970 to 1987, was given a temporary appointment on June 11, 1987 and on June 21 was converted to a permanent noncareer schedule C position at the GM–14 level. On June 15, 4 days later, the position was upgraded to the GM–15 level and the individual was promoted to the position on July 17. The individual resigned from the noncareer position on December 5, 1992, and 2 days later joined the staff of a Member of Congress who was planning to retire. She obtained a Ramspeck certification on December 14—

That is 9 days later.

stating that she would be involuntary separated because the Member was retiring. The individual terminated her employment on December 18.

That is 13 days later.

and applied to DOI for a noncompetitive career appointment under the Ramspeck Act on December 21. She received a career appointment on January 11, 1993 in the same office in the Department of Interior from which she had resigned. A position to which she was noncompetitively appointed had been created in July 1992, and it apparently had remained vacant since that time. The new career position had some of the same duties and responsibilities as the GM–15 noncareer position.

Mr. LOTT. Mr. President, will the Senator from Arizona yield for a question or comment?

Mr. MCCAIN. I will be glad to yield.

Mr. LOTT. I wish to commend the Senator from Arizona for his work in this area. I must confess that when he first called the Ramspeck Act to my attention earlier this year, I had no idea really what was involved. He at that time agreed that he was going to try to educate us all a little bit better and he would be back with an amendment in this area later on this year. He is fulfilling that statement today.

As I have gotten into Ramspeck, I think he has a very good point. This is something that should absolutely be changed. Most Americans have no idea what is involved here and I daresay most Members of Congress. Most of us just were not aware that there was any kind of special arrangement whereby a Member of a congressional staff could wind up getting preferential treatment in employment in the executive branch.

Is that basically what happens under the existing law? If you are on a congressional staff, you can go over to the executive branch under special consideration and get a position on a noncompetitive basis, is that the way it could properly be summed up?

Mr. MCCAIN. Yes. This bill was signed into law in 1940, and there is no doubt that it was an attempt to help individuals who had worked in the legislative branch obtain employment. We all know that the vagaries of the electoral process dictate that—and sometimes the death of Members. But that may have been valid in 1940. I am not prepared to judge the wisdom of this body at that time, but clearly at this time it is not only inappropriate but also there have been some very egregious abuses of the system as it existed.

The system alone was bad, but then when we have people who go over and serve on the staff of a Member of Congress for 7 days or for 20 days, who have not been working in Congress—as I mentioned, one of them had not worked in Congress for 7 years and 3 months, went over, worked for 20 days for a Member of Congress and then got a GS–15 position, which is a permanent position, as the Senator from Mississippi knows. That is really something we need to do away with. I appreciate the question.

Mr. LOTT. Mr. President, I thank the Senator for yielding. I certainly agree with him and will support his amendment when we get to a vote on it later on today.

Mr. MCCAIN. Mr. President, could I just mention in closing, I ask unanimous consent that several articles here, one from the National Journal, one from the Wall Street Journal, and an editorial from the Arizona Republic be made printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Nov. 19, 1994]

LOSERS GET SPOILS, TOO

We've all heard the adage about the spoils going to the victor. The impending changeover to Republican control of Congress is a good example. That means thousands of patronage workers on Capitol Hill—from committee staffers to drivers and telephone operators—the vast majority of whom were appointed by Democrats, could be looking for work.

''Could'' is the operative word here, thanks to a little-known federal law called the Ramspeck Act. Under the law, named after the Georgia congressman who authored it decades ago, congressional employees who lose out in the political shuffle are given first preference for civil service jobs in the federal bureaucracy. That's right! Even the losers stand to gain taxpayer-paid spoils.

As a practical matter, most low-level congressional workers who will lose their majority party positions—committees in the new Congress, for example, will have more Republican staffers than democratic appointees—will likely have to find jobs elsewhere. But the cream of the crop, most of them top congressional aides, lawyers and policy experts, will be able to go to the head of the employment line for jobs in the executive branch under the Ramspeck Act.

The Clinton White House will be under immense pressure to accommodate these Democratic Party loyalists, says Mark R. Levin,

director of legal policy for the Washington-based Landmark Legal Foundation. Writing in *The Wall Street Journal*, Levin observes that these are the same individuals ''responsible for drafting the onerous, big-government approach that the voters rejected on Nov. 8.''

Under Ramspeck, hundreds of these policymakers could ''burrow'' into large federal departments and agencies throughout the country, Levin says, and ''continue to impose their liberal views on the public.'' The law applies to congressional staffers with three years or more of service who lose their jobs due to ''reasons beyond their control . . . such as death, defeat or resignation'' of their bosses. Thus, they are allowed to avoid normal competitive procedures for filling federal jobs and gain immediate career status, with civil service protection, when hired.

When the shoe was on the other foot a few years ago and the outgoing Bush administration sought to find jobs in the federal bureaucracy for its top staffers, then-Democratic Rep. William Clay, a champion of labor rights, condemned the process. ''Burrowing in,'' as he put it, ''is an insidious practice that undermines the civil-service system, takes jobs away from better-qualified career employees and could sabotage the efforts of the new administration to carry out the will of the people.''

We couldn't have said it better.

Levin suggests that the new Republican Congress repeal the Ramspeck Act. It is, after all, precisely the kind of double standard that has served to set official Washington apart from the rest of the nation and which helped to fuel the grass-roots rebellion that turned Democratic incumbents out of office.

''Make the former Hill staffers find real jobs in the private sector,' urges Levin. And as an added bonus, he says: ''If they ever come back to government, they will be more sensitive to the needs of working Americans'' who have no such exempts written into law for poor job performance. Getting Washington to play by the same rule as the rest of us ought to be high on the next Congress' agenda.

[From the Wall Street Journal, Nov. 15, 1994]

THEY'LL NEVER LEAVE

(By Mark R. Levin)

When the American people fired the Democrat majority in Congress last week, they also sent thousands of congressional staffers into the private sector—or did they?

The House Republicans have set up a transition committee, headed by Rep. John Boehner (R., Ohio), to examine the 40-year-old Democrat patronage system. Rep. Boehner's spokesman infoms me that there are some 13,000 committee staffers and patronage employees in the House, the vast majority of whom work for, or were appointed by, Democrats. (This does not include the untold hundreds of individuals who work on the personal staffs of congressmen.)

Although Rep. Boehner has sought, but not yet received, a complete list of these jobs from the Democrats, it is estimated that several hundred of the patronage employees serve as doorkeepers, barbers and beauticians, printers, photographers, elevator operators, security personnel, furniture movers, drivers, telephone operators, librarians and the like.

Padding the public payroll with friends and loyalists is not particularly new, but it is wasteful and ought to be eliminated. However, the real issue in terms of policy and governing involves the fate of Congress' shadow government—i.e., what will come of the thousands of soon-to-be unemployed Democratic staffers who are responsible for drafting the onerous, bit-government approach that the voters rejected on Nov. 8? These are the folks who wrote such oppressive legislation as the Omnibus Budget Reconciliation Act of 1993 (which brought us retroactive taxation, among other things), the Elementary and Secretary Education Act (which federalizes such local educational curriculum), and the Endangered Species Act (which threatens private property rights).

If the Republicans keep their promise to cut a third of Hill jobs, such a reduction—plus the turnover of a majority of the committee staff positions from Democrats to Republicans—will result in an unprecedented, large-scale exodus of these shadow legislators. But where will they go? Many of the staffers are lawyers. Not even in Washington are there enough legal or lobbying positions to employ most of them. And few businesses can use the remaining aides, many of whom have nothing but Capitol Hill experience. That's where the Ramspect Act—a decades-old law widely known to most Hill dwellers—comes in. This law allows out-of -work staffers to find employment among the ranks of career civil servants in the executive branch. The only requirements are that the ex-staffer must have worked a minimum of three years in Congress, must be qualified for the position (of course, a position can be created to ensure that the applicant qualifies), and must exercise his Ramspeck eligibility within a year of losing his congressional job.

Upon receiving a Ramspeck appointment, the former congressional aide receives the same job security and protection as a civil servant. In fact, he becomes a civil servant who can only be removed from his new position for cause—a rare event in our federal bureaucracy.

There will be immense pressure on the Clinton administration to hire Democratic congressional aides. And since there are only a relative handful of political jobs the White House can offer, federal departments and agencies may be pressured to accommodate them through Ramspeck appointments. This would enable hundreds of congressional staffers to burrow into large federal departments and agencies throughout the country.

Why is this a concern? Every year thousands of pages of regulations are written, imposed, interpreted and enforced by workers employed in the executive branch. These individuals make decisions every day that affect our lives. There is a real danger, therefore, that many of the same congressional staffers whose bosses were just deposed by the American people will assume important decision-making positions in the federal bureaucracy, permitting them to continue to impose their liberal views on the public.

The incoming Republican leadership should take immediate steps to prevent the possible abuse of Ramspeck hiring. For one, the future speaker, Newt Gingrich, and senate majority leader, Bob Dole, should write immediately to each federal department and agency head, advising them that come January 1995, appropriate oversight will be exercised to determine whether (and the extent to which) Democrat congressional staffers have merely relocated from the halls of Congress to the bowels of the bureaucracy. The GOP leaders should also consider legislation abolishing the Ramspect Act, which is intended to protect congressional staffers at the taxpayer's expense.

Make the former Hill staffers find real jobs in the private sector. There's an added bonus here: If they ever come back to government, they will be more sensitive to the needs of working Americans.

[From the National Journal, March 1994]

RAMSPECKED!

(By Viveca Novak)

(The 1940 Ramspeck Act allows some congressional aides to circumvent the traditional civil service hiring process and secure immediate—and highly coveted—career status. But critics say that ''Ramspecking'' is as good a symbol as any of what's wrong with the labyrinthine federal personnel system.)

Phyllis T. Thompson, known to most as Twinkle, got lots of experience working on Interior Department issues on the staffs of Sen. Barry Goldwater, R-Ariz., and the Senate Select Committee on Indian Affairs. In 1987, she was rewarded with a political appointment to Interior's Bureau of Land Management. But in December 1992, not long after Democrat Bill Clinton was elected President, she jumped back to Capitol Hill—oddly, to the staff of Sen. Steven D. Symms, R-Idaho, who had not run for reelection and would be leaving office on Jan. 3.

Thompson worked for Symms for 11 days. Then she suddenly resurfaced at Interior, drawing an annual salary that's somewhere from $69,000–$90,000 in a career civil service job for which she was given preferential consideration.

Thompson was engaged in a neat bit of ''Ramspecking.'' The bizarre-sounding maneuver is great for those who can use it, but not so great for those who happen to believe in a purer merit system or who get edged out of jobs or promotions by Ramspeckers. Although Vice President Albert Gore Jr's National Performance Review sparked some hope of sweeping changes in the federal bureaucracy, sources who worked on the ''reinventing government'' report said that Ramspecking and other preferential hiring systems, which have drawn much criticism over the years, are too hot to handle and probably won't be taken on.

The 1940 Ramspeck Act, named for its chief House sponsor, gives a leg up on executive branch jobs to congressional and judicial branch employees with at least three years of total service who are ''involuntarily separated'' from their jobs—if their bosses die, retire or are defeated, for instance, or if their jobs are restructured out of existence. They avoid the regular competitive process and are given immediate—and highly coveted—career status.

In short, its a perk.

Make no mistake about it: The Ramspeck Act, which results in maybe 100 or so appointments a year, may seem like little more than a speck in center of a federal work force that includes about two million workers, not counting the U.S. Postal Service.

''When we're fighting about whether or not there are going to be RIFs [reduction in force], whether or not there are going to be buyouts,'' said Robert M. Tobias, the president of the National Treasury Employees Union, ''this doesn't get to the top of the list.''

GAMING THE SYSTEM

But in an environment in which the federal bureaucracy is under intense scrutiny as part of a high-level effort to make it more efficient and more responsive Ramspecking is as good a symbol as any of what can be so disheartening about the labyrinthine federal personnel system. Seemingly well intentioned, the law can be used to good effect, according to some who have had experience with it. But schemers have found ways to game the system while staying within the letter of the law. And even when it's used as directed, critics say, it's circumvention of the traditional civil service hiring process weakens the system and erodes morale.

''The Ramspeck Act is discriminatory,'' Fredric Newman, a retired director of civilian personnel for the Army, said, ''It contradicts the merit system, and I tried to avoid applying it.''

Donald J. Devine, who headed the Office of Personnel Management (OPM) from 1981–85, wrote a memo to Clinton after the election in which he urged him, among other things, to get rid of the Ramspeck Act. ''It's one of the innumerable provisions undermining the merit principle.'' Devine said in an interview. ''There's no real justification for it. It's basically one of countless benefits of the legislative branch.''

The 1992 election provided laboratory conditions for observing the two principal species of Ramspeckers. First, there was a change not only in Administration, but also in party. Former Capitol Hill aides who'd gotten political jobs in the Republican executive branch were looking for life rafts in the career civil service—various ways to burrow in. Sen. David Pryor, D-Ark., sent the General Accounting Office (GAO) a list of 150 names and 50 department or agency reorganizations that his office had received complaints about in this regard, some of them involving Ramspecking. The GAO's final report is expected out in a few weeks.

Second, 1992 brought the largest exodus of Members of Congress since 1948, and attached to each lawmaker were several aides who were faced with the prospect of finding new employment. Morton Blackwell, a conservative activist, was running seminars in House Annex I on how to Ramspeck. ''Conservatives must match the Left's mastery of the Ramspeck Act,'' he declared (although statistics don't indicate that either party has a lock on this). ''Dedicated conservatives now can use non-competitive routes to secure career employment in the federal government. . . . In government, personnel is policy.''

Without a presidential contest in the wings, Ramspecking of the first type will be little practiced until 1996 or later. But the 1992 election brought plenty of it, some of which looked fishy under even a lenient threshold of acceptance transition behavior.

OPM, investigating complaints about 14 Ramspeck appointments at the Interior Department in 1992 and early 1993, found that seven political appointees had returned to Congress for periods of only a few days to a few weeks. This reestablished their Rampseck eligibility; the law doesn't require an employee's three years of congressional service to be continuous, but it does require that the Ramspeck transfer take place within a year of leaving Capitol Hill. While such brief appearances on the Hill between political and Ramspeck jobs seem to be technically permissible, OPM report called them cause for ''grave concern.'' The report went on to say that ''it is difficult to conceive that the act was intended as a means to convert political executive branch employees into career civil servants.''

OPM zeroed in on two cases. One was that of Timothy Glidden, who held a political appointment as legal counsel to then-Interior Secretary Manuel Lujan Jr. Glidden, a former congressional aide, quit his job at Interior shortly after the election and went on the payroll of Rep. John J. Rhodes III, R-Ariz., who'd just have been defeated. He worked there from Dec. 1–8, earning all of $26.67. Then he returned to Interior with a Ramspeck appointment as a program analyst in the Office of American Indian Trust.

Some officials of the Interior Department apparently weren't surprised. According to OPM, the job was created for Glidden even before he left. (Glidden told OPM's investigators that he was unaware of that.) The report branded Rhodes' hiring of Glidden and Glidden's return to the Interior Department ''a cynical manipulation of the Ramspeck authority to achieve a preordained result, the placement of [Glidden] in a position especially designed for him.''

OPM also assailed the recent career path of Hattie Bickmore, who'd worked on Capitol Hill for eight years before she accepted a political appointment in 1991 as a special assistant in the Minerals Management Service. But she left that position for a one-week job (Nov. 9–13) with the Senate Governmental Affairs Subcommittee on Oversight of Government Management, at the request of Sen. William S. Cohen of Maine, its ranking Republican—a particularly ironic placement because the committee sometimes investigates complaints about Ramspeck abuses. On Nov. 16, she was appointed under Ramspeck authority to a career GM–15 position in Interior's Take Pride in America program.

Bickmore told OPM, among other things, that she wanted to qualify for retirement benefits, for which she'd be eligible in February 1994. And, she said. ''it's a known fact that it's all right to go back [to the Hill] to get Rampseck eligibility reestablished.''

But OMP found this case to be much like Gidden's: Affidavits and other evidence indicated that a job was being created for her to return to before she even left. ''No reasonable person examining the total situation in these two cases could conclude that these two appointments met either the letter or the spirit of the Ramspeck Act.'' OMP said. Besides having prearranged, custom-made jobs waiting for them at Interior Glidden and Bickmore couldn't argue that their departures from their short stays on the Hill were involuntary.

OPM recommended that both Glidden and Bickmore be terminated. Bickmore was fired, and lost her appeal to the Merit System Protection Board on March 15 of this year. Glidden departed as well. though it could not be ascertained whether he retired or was fired.

OPM fond these two cases the most egregious because jobs were created for them, said Michael D. Clogston, the assistant director of its compliance and evaluation office. ''But we found in a number of cases, people were going up [to the Hill] for a quick cup of coffee, in effect.'' he said. ''That conferred upon them eligibility to get a job in the executive branch. And a lot of people are of a mind that if you went up for quick cup of coffee, that in itself was enough to violate the spirit of the law.''

The Rampseck process ''was started for these poor devils who worked long years on the Hill and fond themselves out of a job because their boss lost or died.'' Clogston added, ''In the cases we looked at, none of them fit those circumstances.''

THE SILVER PARACHUTE

Most who use the Rampspeck privilege come straight from the Hill after the lawmaker they've worked for leaves Congress. That was the intent behind the law. Its legislative history indicates that Members wanted to provide something for the loyal aides, who had little job security and could, through no fault of their own, be out of work overnight. Because they usually had some expertise to offer, the reasoning went, why not allow them to put it to use in another branch of government?

There was also a strong ''me too'' motivation. ''If there is justification for 'blanketing' into permanent civil service positions many thousands of persons, there is certainly justification for granting this opportunity to employees of the legislative branch,'' said the conference committee's report from 1940, which also noted that a similar provision was available to White House employees.

''On Capitol Hill, you've got these people who are professionals and have no civil service protection—people who have put in years of service, who have some qualifications and know their areas,'' said Edward J. Gleiman, the chairman of the Postal Rate Commission and a former staff director of the Senate Governmental Affairs Subcommittee on Federal Services, Post Office and Civil Service, which Pryor chairs.

Said a former Senate administrative assistant in recounting the vagaries of life on Capitol Hill, ''John Heinz's staff goes out to lunch and comes back and they're out of a job.'' Heinz, a Republican Senator from Pennsylvania, was killed in an airplane crash in 1991.

And some who are on the hiring end of things, in federal departments and agencies, say that Ramspecking offers other advantages. ''Generally, I think it's probably a useful thing,'' said Thomas S. McFee, the assistant Health and Human Services (HHS) secretary for personnel. ''These people have had unusual experience and can make a valuable contribution.'' Ramspecking cuts time-consuming red tape that would otherwise mean advertising a position, ranking and evaluating applicants and so forth. McFee pointed out—and Ramspeck candidates must qualify for the positions they take.

According to a survey by National Journal, HHS had by far the largest number of Ramspeck hires—17—of all federal departments and agencies in the 13-month period beginning in December 1992; Interior had 9 and the Agriculture and Veterans Affairs Departments each had 8. Over all, at least 80 workers were hired as Ramspeck appointments in that period (several agencies didn't respond).

Some congressional offices were especially adept at Ramspecking. Former Rep. Gerry Sikorski, D-Minn., for example, sent three aides to dry land that way after he lost in 1992. The Senate Environment and Public Works Committee—after its chairman, Quentin N. Burdick, D-N.D., died—managed to Ramspeck four of Burdick's people. When the House Select Committee on Narcotics Abuse and Control went out of business early last year, two of its employees were Ramspecked into HHS. Former Rep. Mike Espy, D-Miss., took some aides with him as political appointments when he became Agriculture Secretary; he took three more under the Ramspeck Act.

For all its seeming humanitarian utility, however, the Ramspeck Act seems to have more critics than it does fans or neutral observers.

''If you believe in separation of powers, why give preference to legislative branch employees?'' a federal personnel expert asked. ''This is a special privilege that ought to be examined. If we're truly to have an apolitical civil service, these kinds of things shouldn't go on. They denigrate the underlying principles of an open and competitive civil service.''

Ramspecking is sometimes used as a kind of political appointment, but with indefinite security. Applications for jobs with Ramspeck certifications attached were a common sight in the White House personnel office in the early days of the Clinton Administration.

''I would argue that it's really not necessary,'' said Mark Abramson, the president of the Council for Excellence in Government, a not-for-profit organization of former public officials. ''The political people can get political appointments at any time through Schedule C or non-career SES [Senior Executive Service]. I just don't see any reason to give special treatment to congressional staff

members, I think it's outlived its usefulness, if there ever was one. There's political appointments and then there's the career process.''

And clearly, congressional offices can manipulate the process. One gambit plays off the fact that employees are eligible for Ramspecking not only if the Member they work for leaves Congress, but if their office goes through a restructuring that leaves them out of work.

''If [a staff member] is interested in a civil service job, congressional offices will go through the motions of restructuring and certify them for Ramspeck,'' the staff director of a Senate office said. ''If [it] doesn't hurt anything, we will try to do it for them. Of course, we don't say we did it at their request.''

Offices also ''sometimes say they've restructured and they haven't,'' one aide added. ''The way I look at it is, the quality of life here is pretty low. It's long hours and low pay, and for people with a family, it's hell. If there are small ways we can bend the rules to make things easier, we do it.''

Making things easier for a congressional aide, however, doesn't necessarily make things easier for those on the other end of the process.

''They come in with the support of a Congressman or a Senator, and you're told as a manager that this person is coming in at a given level,'' said a former agency manager who now works for the White House. ''There are sometimes complaints filed by other employees, but the grievances don't hold up because it's legal.''

A supervisor's resentment over being forced to hire someone rarely has happy consequences. Stephen Hoddap, a staff member of the House Interior and Insular Affairs Committee for three years and a 17-year veteran of the National Park Service before that, wanted to Ramspeck back to the Park Service after his boss, Rep. Robert J. Lagomarsino, R-Calif., was defeated in 1992. He became the assistant superintendent of Shenandoah National Park over the objections of the superintendent, who was told to hire him by higher-ups. According to Hoddap, when he arrived, all his duties were taken away and he had nothing to do. ''I had no job,'' Hoddap said. He left after two months, returning to his old position on the Hill but this time attached to Rep. Don Young, R-Alaska.''

For career civil servants who are hoping to advance, Ramspeck and other preferential appointments, which are often at the highest levels, can ''shoot morale right to the bottom,'' said a former employee of the Small Business Administration, who saw such appointments bottle up the promotion hopes of career civil servants in his office. ''It affects quality of work, motivation and incentive to achieve.''

Ramspeck isn't the only preferential hiring loophole in the federal personnel system. There are, for instance, a veterans preference, a preference for those who have served in the Peace Corps, a measure that in some cases gives priority to Native Americans—even a preference for people who have worked in the Panama Canal system. The huge number of special hiring authorities and arrangements makes it clear that merit—supposedly the backbone of federal personnel policy—is far from the only yardstick used in sizing up candidates.

''The general concept of having a congressional person go to the head of the class is hard to justify in a merit system,'' the staff director of a Senate committee said. ''But the precedent has been set: the merit system has been encroached on in other ways. Veterans get preference, I can't justify that, either. We're talking about characteristics that have nothing whatever to do with the ability to do the job.''

''The merit system is very disjointed, and the definition of merit is something that truly needs to be reexamined.'' Patricia W. Ingraham, a professor of public administration at Syracuse University's Maxwell Graduate School of Citizenship and Public Affairs, said, ''It's a word that in many ways has lost its meaning.''

The multiple layers and tangled strands of the federal personnel system were spotlighted by the National Performance Review's report last fall: The 850 pages of federal personnel laws, 13,000 pages of OPM regulations and 10,000 pages of the *Federal Personnel Manual* don't make for efficient and productive government, Gore declared. And there's been some progress. Recently the manual was slashed to 1,000 pages. Federal departments and agencies are supposed to be developing their own hiring guidelines.

But doing away with or reforming Ramspeck and its brethren would require legislation, and no one expects the Clinton Administration, for all its reinvention efforts, to tackle preferential hiring systems head-on. ''There was an early look at this,'' a participant in the National Performance Review said. ''The decision was made not to tackle it. It was a strategic decision; we could have lost the whole ball of wax. Why throw up red herrings that would have Congress pissed off at us?''

The constituency for Ramspeck, after all, is Congress itself.

''People are staying so far away from this, ''a top aide to a congressional committee that deals with personnel matters said. ''You have some trying to eliminate it, others saying it serves a legitimate purpose. But the debate would be around this being a perk for congressional staff, and I for one would not relish that in the current atmosphere'' in Washington.

Some would simply argue for better policing of the Ramspeck Act to prevent abuses. Currently there's no central oversight of Ramspeck appointments, something the GAO may recommend in its forthcoming report. OPM's review of Glidden's case and a few others covered only the Interior Department and was prompted by a large number of complaints and by requests from a Senate committee: it is the only such review that OPM has ever done, and the agency has no authority or plans to routinely examine Ramspeck placements.

Meanwhile, this year is shaping up as one that will bring turnover on Capitol Hill rivaling that of 1992. As lawmakers retire, run for other office or take their hits at the polls, their staffs will be looking for someplace nice and safe to land—someplace like the civil service. Look for plenty of Ramspeck appointments to wash into the executive branch, triggering the usual complaints from career civil servants—particularly because, as the federal work force, and especially midlevel management, is downsized, there will be more competition than ever for a limited pool of jobs.

Potential Ramspeckers, start your engines. Demand for Ramspeck certification forms is starting to pick up again at the House Clerk's Office, according to records coordinator Robert Duncan. It's a handy bit of paper to have in your hip pocket come election time.

A LAWMAKER'S LAMENT

What a legacy. Imagine if, after years of public service, many people mentioned your name only in connection with an employment perk for congressional staff, if they mentioned it at all. In this case, even those who know the ins and outs of the Ramspeck process have no idea who the man was; his name has become a verb.

Georgia Democrat Robert Ramspeck served in the House from 1929–45, a portion of which time he chaired the Civil Service Committee; during his last two years, he was Democratic whip. In the 1950s, he chaired the Civil Service Commission (subsequently absorbed into the Office of Personnel Management and the Merit Systems Protection Board).

Ramspeck seemed to be acting in the interests of long-suffering congressional aides when he introduced legislation to give them an edge in getting into more-secure government jobs if they were thrown out of work on Capitol Hill.

Making a living was a subject near and dear to Ramspeck's heart. His colleagues reportedly were surprised when Ramspeck resigned from Congress at the end of 1945 to take a job as a lobbyist (yes, it was ever thus) with the Air Transport Association. In March of the following year, his byline appeared under the headline ''I Couldn't Afford to Be a Congressman'' in a first-person piece for Collier's magazine. Ramspeck wrote that on a Member's $10,000-a-year salary, he could ''barely skin by,'' especially because at that time lawmakers financed their own reelection campaigns and there was no provision for retirement pay. Ramspeck proposed a retirement system for Members similar to one that executive branch employees had. It passed, but ''editorials denounced us as moochers, as hogs in the public trough . . . the entire Congress was besmeared,'' Ramspeck wrote, and the law was rescinded. Congress eventually got its own retirement system.

Ramspeck, incidentally, had other complaints about Congress that seem eerily familiar nearly 50 years later. Among them: ''I have known of some cases of scared voting by good men who could foresee nothing but disaster for themselves if they antagonized certain groups.''

Ramspeck died in 1972.

[From the National Journal, April 1995]

A SAFE HAVEN FOR EX-AIDES?

(By Michael Crowley)

The 1940 Ramspeck Act, designed to help congressional employees who become unemployed ''involuntarily through circumstances beyond their control'' find federal jobs, has been put to good use since the November elections. Now it's being put under the microscope.

Suspecting that use of the act would surge after the election left hundreds of Democratic aides jobless, Senate Governmental Affairs Committee chairman William V. Roth Jr., R-Del., asked the General Accounting Office (GAO) in November to tally Ramspeck appointments.

The GAO did, and found a 500 per cent increase in the over-all-rate of executive branch appointments since November, as compared with the first 11 months of 1994. The 74 Ramspeck Act appointments since November are already more than triple the 21 in the first 11 months of last year.

Roth, who says that he is ''shocked'' at this apparent inconsistence with attempts to downsize the federal government, has asked for more GAO reports, although he plans no further action at this time.

Even before the elections, congressional aides had their eyes on Ramspeck opportunities. Last fall, the House Administrative Assistants Alumni Association, a group that helps former congressional staff members find new employment, held a seminar offering tips on finding Ramspeck jobs.

Mr. McCAIN. Mr. President, I hope that my colleague from Mississippi and my colleague from Michigan, if they

agree with this amendment, would also be amenable to adding this amendment, if there is a compromise, which I believe there will be, to either the gift ban or the lobbying ban or the combination of the two. I would appreciate their consideration on that.

Mr. President, I will not ask for the yeas and nays because I have some anticipation that this amendment may be agreed to by both sides, although Senator GLENN, who has worked on this issue extensively, would probably want to be involved in the consideration of this amendment.

Also, Mr. President, let me mention that there was a hearing held, thanks to the distinguished Senator from Alaska, Senator STEVENS, in the Governmental Affairs Committee. I do not think there was any doubt that the testimony presented in that hearing was clear that this law long ago outlived its usefulness, if it ever had any.

So I want to thank the Senator from Mississippi for supporting this amendment. I hope that the Senator from Michigan can. And although we could bring this legislation freestanding, I think it might be appropriate as an amendment on this bill since this legislation is an attempt to do away with some practices to which the American people object.

Again, I want to congratulate the Senator from Mississippi, the Senator from Kentucky, and the Senator from Michigan, as well as Senators FEINGOLD and WELLSTONE. I hope we can reach an agreement on this gift ban issue. I do not think it reflects great credit on this body when we seem to be arguing over whether $20 or $50 is an appropriate amount of money to purchase a vote of a Member of Congress. I hope that we can reach some level of accommodation and comity so that we reflect well on this body and the Congress as a whole.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Michigan.

Mr. LEVIN. Mr. President, let me be brief, while the Senator from Arizona is on the floor. I am not as familiar with the amendment as others on the Governmental Affairs Committee, so I cannot comment at any length on this point.

I just have one question I would like to ask the Senator from Arizona, however, and that is, I believe Senator STEVENS has suggested some language which had been added to one version of the amendment which would have allowed, I believe, the past experience of the legislative staff to be considered at the time of the appointment. I am not familiar with the language, but I am wondering, I gather that language is not part of the Senator's amendment. We are trying to get hold of Senator STEVENS relative to that language. I understand Senator PRYOR has not yet arrived at the Capitol. I know that he had an interest in this legislation as well. I do not know what his position is relative to the amendment, however, and I do not want to suggest that he opposes it. He might not. I just do not know. He is en route to Washington from Arkansas.

I just make those two comments for the information of my friend. Particularly I do want to alert him to the fact that I understand Senator STEVENS did have language which was added at one point which was not in this form. We are trying to alert Senator STEVENS so he will be aware of it.

Mr. MCCAIN. I thank my colleague.

Mr. LEVIN. I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I would like to offer a few comments this morning in support of the legislation dealing with lobby disclosure and gifts for Members of Congress.

I think it is clear that the level of cynicism and disillusionment of the American people about the performance of Government and the integrity of public officials has reached rather historic heights. I think what helps fuel that sense of outrage is the public sense that the system is not serving the public good but instead is being manipulated by so-called special interests that serve their own ends. I would like to take a few moments to talk about the special interests and this anti-Government feeling that is so pervasive throughout the country.

It seems to me that the word ''politician'' over the years has always been taken in a negative fashion. We hear radio commentators, for example, talk about ''the politicians.'' It is not said in a complimentary sense but rather a negative one. I have always preferred to use the phrase ''public official'' or ''public servant,'' because I think that is basically what we are sent here to be, and that is to serve the public's interest. Again, the word ''politician'' has that negative connotation or spin, and I suspect the words ''lobbyist'' and ''special interest'' fall in the same category.

Everyone who serves in the House and Senate understands that we are not specialists. We are great generalists. Perhaps in our past lives as private citizens, we had some degree of specialty. Mine was as a trial attorney. I tended to specialize in certain fields within that practice of trial work.

Coming to Congress, I no longer was able to specialize by virtue of the fact that I had to have a much broader view of things. I had to try to make myself as knowledgeable as possible in a great variety of areas.

So I became, like most of us here, a generalist. Of course, we are all familiar with the expression that a generalist is someone who reads less and less about more and more until he knows absolutely nothing about everything. I do not think we all fall in that category but, nonetheless, we often have to float along the top of issues by virtue of the very volume of issues we are required to confront. So when we hire people to work for us, our staff members, we try to hire the best and brightest to make sure that they are well informed on the issues that we are going to confront during the course of a legislative session.

Lobbyists also play a very important role in our system. They are not to be derided or denigrated or criticized or condemned. They, in fact, are hired as experts to represent the people who, indeed, have special interests that come before the Congress. The notion somehow that special interests are antidemocratic could not be more wrong. Indeed, our Founding Fathers determined that our country was comprised of special interests. Virtually everybody in the country has a special interest.

If you are talking about farmers who want subsidies or other Government programs to assist them in the production of their products, they are clearly a special interest. If you talk about homeowners who wish to have a tax deduction for interest payments on their mortgage, that clearly is a special interest. It is a policy we have adopted to encourage people to become homeowners but, again, it is a special interest. We have business men and women who would like to have accelerated depreciation schedules so that they can continue to modernize their businesses. That is a special interest. You can go to any facet of our society, and virtually everyone has a special interest in Government policies.

Perhaps one of the clearest examples of this came about many years ago when I was flying on Delta Air Lines from Bangor to Washington. As I boarded the plane, a flight attendant stopped me, and she said, ''Are you bothered by all of those lobbyists down in Washington every day?'' I could see by her facial expression that she, in using the term ''lobbyist,'' saw them as some sort of evil affliction upon our system.

I said, ''Frankly, I am never bothered by a lobbyist in Washington.'' The only people who lobby me intensely are flight attendants who insist that I preserve their tax-free travel status. There was a measure under consideration by the Senate Finance Committee some years ago to tax so-called fringe benefits. Many flight attendants, instead of receiving direct compensation, get free travel benefits for themselves and their spouses. Congress was considering taxing those benefits as income. So every time I got on the plane, guess what happened? I was lobbied by the flight attendants, saying, ''Please do not touch our tax-free travel benefits.''

A point I was trying to make to the flight attendant was that she, in fact, was a lobbyist. She was lobbying me, as were her colleagues, on each and every occasion I got on a plane. It was another case of lobbying on behalf of a particular special interest.

So we have this notion that somehow lobbyists are an evil upon the system—that is wrong—and that special interests are somehow also something to be condemned, when, in fact, they are an inherent part of our system. People organize along the lines of their special interests. We can see many people here in the galleries today, visitors to Washington. They may be on school vacations or family vacations. They come to the Senate and to the House to sit in the galleries to look upon the system at work. For the most part, they cannot take the time out of their daily lives—and they probably cannot afford it—to be lobbying Members of Congress on a regular basis. But they may have a very special interest. They may have a very special interest in legislation that will have a major impact upon their businesses, upon their professions, upon their lives. And so what many are forced to do, by circumstances, is to hire an expert, hire a trade association, or hire a law firm that has developed expertise over the years to better articulate their viewpoints and to bring their views to the attention of the legislators who are elected to represent them. That is all part of our system. That is exactly what the democratic system is all about.

The difficulty, of course, comes when there is a misperception that it is the special interests who hire the lobbyists who are gaining access and unfair advantage over the general commonweal, the general public good. That is where the cynicism starts to set in when there is a perception that just a few key people are being paid very high dollars in order to shape and influence and alter public policy in ways that are very damaging to the overall good of the country.

That, Mr. President, is why we are here today to talk about lobbying disclosure, because the current system is simply a sham. It does not work. The laws are confusing, vague, overlapping, and duplicative. They require some to register—not many. Those who do register file information which is virtually meaningless. And so the cynicism starts to set in once again.

We can recall that during the last Presidential campaign, when Ross Perot started to call the attention of the American people to those high-priced lobbyists and special interests in Washington controlling the destiny of the American people, he struck a cord, a deep cord of public approval. What we need to do is to reform the system in a way that provides uniformity, that provides simplicity, and that provides clarity. Those are the goals that Senator LEVIN and I have been striving to achieve for several years now.

Frankly, we found during the course of the hearings on this legislation that there was not great disagreement from the lobbying community itself. They were, in fact, eager to have some piece of legislation, comprehensive in nature, that would lay out with clarity exactly what are their responsibilities. So we tried to address the issue of who is required to register? Who is being paid to lobby? How much is that person or organization or firm or association being paid to lobby? And to lobby on what?

So basically, who is being paid how much to lobby on what? Those were the essential ingredients of the legislation we have proposed in past sessions. Regrettably, there was a good deal of misunderstanding in the final days of the last session that delayed action on the bill. I believe this is an issue that cannot continue to be delayed without contributing to this deep sense of cynicism that continues to exist among the American people.

It is my hope that as we discuss this today, and focus, also, on the issue of gifts, we can reach agreement. I might say that few of us believe that any Member of this body or the other body is going to be corrupted by a steak dinner or a pocketknife or some other token that comes through a Member's office during the course of a year. Nonetheless, it is an issue that we have to address.

I think Senator MCCAIN struck precisely the right note when he said we should not be arguing whether the gift limit should be $20, $50, or $100. The issue is whether there should be any at all. Should we try to remove the seeds of discontent, even though we feel that it has been perhaps mischaracterized, that it is a false perception? Nonetheless, it is a deeply held perception, so we ought to remove it.

Mr. President, Senator LEVIN and I have proposed an amendment to the lobby disclosure bill which is designed to meet the objections of our colleagues. We think that it fairly does that. First, as Senator LEVIN already indicated, the grassroots lobbying provisions that were included in last year's conference report that caused such controversy are no longer included in this bill. They are excluded. The pending amendment would go even further to the extent there is any uncertainty on this point. It provides additional clarification that the bill does not apply to grassroots lobbying or other communications made by volunteers to express their own views.

The amendment also doubles the thresholds when individuals or organizations are required to register as lobbyists. It eliminates the provisions that would establish a new agency to administer and enforce the law. It maintains the current system of having reports filed with the Secretary of the Senate and the Clerk of the House.

I understand the concern on the part of our colleagues, who say, ''Here they go again, another new layer of bureaucracy. Here is a brand new agency that is going to be created with all the attendant levels of bureaucratic delay and redundancy.'' I think there was a measure of merit to the concern. Our problem was that we did not know where to put the repository for the reports. We have agreed, however, that we do not want to complicate this matter and create another bureaucratic layer of duplication for the people who have to file. So we have agreed to eliminate that provision.

Finally, the amendment would strike the enforcement provisions and, instead, provide the Secretary or the Clerk to notify lobbyists who may be in violation, and refer possible violations to the appropriate U.S. attorney if no corrective action is taken.

We have tried to accommodate our colleagues' concern that this is somehow going to turn into a witch hunt of lobbyists who might have made innocent mistakes. That is not our intent at all. I have tried to indicate by my own comments that I believe lobbyists provide a valuable contribution to the legislative process. We, frankly, cannot function effectively without having lobbyists who represent ''special interests,'' who are in fact the American people. We need their expertise to be brought to our staffs and to us, and to weigh their views. That really is what we are elected to do—to weigh the relative merits of the case made by those advocates who are hired by the American people to come to us to urge a particular position.

As long as a system is open to everybody, the American people will benefit. The danger is when there is a perception that only a few big lobbyists are getting through, only a few big special interests are getting through, only the ones who can afford to hire the high-priced individual can get through. That is where the cynicism comes in, and that is what we have to do our level best to seek to eradicate.

We want to make sure that the public is fully aware of who is being hired, by whom, how much they are being paid, and to do what. As long as there is full disclosure of those activities, then at least there is hope that we can reduce that level of distrust, that level of alienation, that level of cynicism.

Mr. President, I hope as we move through the afternoon's debate that we can arrive at an understanding or accommodation. We have tried to take into account our colleagues' concerns. We believe that we have moved substantially in that direction, to remove any doubts about what the goal ought to be.

I think the goal is shared by all—simplification, uniformity, and clarity. Those are the goals that Senator LEVIN and I seek to achieve, and I believe with a measure of good will demonstrated throughout the day we can arrive at a consensus where there will be virtually unanimous consent for the legislation that will emerge. I yield the floor.

Mr. LEVIN. Mr. President, let me first thank my friend from Maine for the continuing contributions which he has made to political reform.

This bill before the Senate on lobby disclosure is one of three pillars of reform. He has been steadfast in his support of lobby disclosure reform. Whether I have chaired the subcommittee or he has chaired the subcommittee, we have worked together on this through a number of Congresses.

Hopefully, we will be able to pass a strong bill today to put an end to a situation which breeds total disrespect for law. We have a number of laws on the books that purportedly require lobbyists to register and disclose but are both a sham and in a shambles—and have been that way for decades.

Hopefully, we will not only pass a strong bill here today on lobby disclosure and lobby reform, but we can at long last get a bill that passes the House, gets through a conference, and gets adopted by both Houses in exactly the same form. When that happens, I am sure we will be celebrating together just as we have worked so hard together through this past decade and a half on this and so many other subjects. I want to thank him for his leadership in this area.

Mr. WELLSTONE. Mr. President, I will be relatively brief. First, I thank Senators LEVIN and COHEN for their very fine work, and I am very pleased to be an original cosponsor. As all of my colleagues know, we have taken up lobbying reform first and then later we will take up the gift ban legislation.

I think both Senators make a compelling case. We really have not made any changes since the late 1940's—I think, since 1948. The point is, for those that are paid to lobby, whether lobbying legislators or members of the executive branch, this is part of the way in which we conduct politics in Washington, DC. People in the country have a right to know who is being paid to lobby and have a right to have some understanding—or a clearer understanding, let me say—of the kind of scope of those activities. I think that is what we are trying to do in this lobbying reform effort.

Mr. President, again, I think this goes to the heart of accountability. I think it goes to the best of good government. I certainly hope that this very important lobbying reform effort will bear fruit and we will pass a reform measure.

Senator COHEN said it well as I was coming in. I believe what I heard him say, that it was absolutely nothing to do with the denigration of the work of any particular lobbyist, that is not it at all. It has much more to do, again, with just making sure that it is a political process that is open and accountable. That is the issue.

I commend both Senators for their very fine work, and say that I am very proud to be a part of this. It is also true, Mr. President, and I want to be clear, we will take up gift ban later on. That is not what is on the floor right now.

We have two different amendments—two different initiatives—that we will be dealing with separately. I do think, however, there is an important connection, namely, as we move forward and pass—and I believe we will, I believe we must—a comprehensive gift ban reform and as we put some restrictions on this. It is very important. Obviously, if we are going to have some very clear restrictions about what lobbyists can give, then it will not work if only a small fraction of those who are actually paid to lobby are ever really listed, or if we do not have a clear idea as to who the people are who are getting paid to lobby, or we have no clear idea of what their scope of activities are. Those measures, in a policy sense, are very closely related.

Mr. President, the last point—and let me again point out for colleagues that gift ban is later; right now it is lobbying reform. One more time, in 1994, 88 current Senators, 85 veteran Senators and 3 of the 6 freshman Senators who served in the House of Representatives in 1994 voted in favor of the comprehensive gift ban bill which we will have on the floor tonight or tomorrow. I just would say to those Senators that I think there was a reason for that kind of broad-based support. I hope people will not retreat from that or essentially change their positions or flip-flop, or whatever characterization can be used.

Mr. President, this is an issue that people in the country feel very strongly about. I think it goes beyond just the gift ban reform. I think it has more to do with the very strong sense that people have about politics in Washington.

The Senator from Kentucky and I have many disagreements in these different areas, but I personally think—and I apologize to the Senator if I am being presumptuous—but I personally believe there is one very strong area of agreement, which is that neither Senator would be in public service if we did not believe in our work. I reject the across-the-board bashing and denigration of public service, whether it is Democrats or Republicans or Independents. I think it takes us nowhere good as a nation.

My very strong feeling about this is that the sooner we move forward and pass what I think would really be some strong reform measures, credible reform measures, that changes some of the political culture in the Nation's Capital, the better off all will be. We need to let go of it. I think people want us to let go of it. I think we have at the moment, whether tonight or tomorrow or whenever we get to gift ban, some very major differences.

I say to my colleague later, when we get a chance to debate this, because I do not want to move in on the lobbying reform time, but I think that at the moment, at least, the Republican proposal has just some gigantic loopholes, large enough for a truck to drive through.

Later on tonight, not now, Mr. President, I will include an editorial from the New York Times on Saturday called ''Republican Gift Fraud.'' Frankly, before it is all over, I think we can pass a strong comprehensive gift ban legislation.

To give but one example, if we essentially say any gift under $100 is fine, lobbyists or others, and it does not aggregate, in theory, every day of the week someone can be taking Members out or paying for a ticket to an Orioles game or whatever. This is where there is agreement and disagreement.

On the agreement part, I do not actually think that Senators ''are for sale.'' I do not look at any of this as sort of representing the wrongdoing of individual officerholders. I just do not believe that is what it is about. But at a systemic level, I must say that what people of Minnesota say to me is, ''Look, Senator, people do not come up and ask to take us out to dinner.''

Mr. MCCONNELL. Will the Senator yield?

Mr. WELLSTONE. Does the Senator from Kentucky have a question?

Mr. MCCONNELL. I want to commend the Senator for his observation, because I do think there is a lot of rhetoric about people selling influence for lunch. I appreciate the observations of the Senator from Minnesota that is clearly not the case.

I also think that the only thing I agree with my friend from Minnesota about is, I think, on the gift issue, it is time to get it over with one way or the other. I think it is time to make a decision. I think we will have a good debate about what is appropriate; hopefully in restrained tones, without a lot of implications that things are going on that are clearly not going on.

So I commend the Senator from Minnesota for his observation that any such suggestions that Members of the Senate are selling influence for lunch are absurd. And I hope we can have a high-level, appropriate debate on this issue. Second, I agree with the Senator from Minnesota, I think it is time to wrap it up on the gift rule and, hopefully, we will be able to do that later tonight or first thing in the morning.

Mr. WELLSTONE. Mr. President, I thank the Senator from Kentucky again. I said to my colleague from Michigan I did not want, now, to make gift ban the focus. We are now on lobbying reform. Of course the disagreement the Senator from Kentucky and I have, and I think also with the Senator from Michigan and others, that while I do not think the issue was the wrongdoing of an individual officeholder, that was my position—while I reject the denigration and the bashing of public service and people who are in public service because I am very proud the Minnesotans have given me this opportunity to be a Senator—on the other hand, I think as I started to say, when people in Minnesota come up to me—you may have had the same thing happen to you, Mr. President—what people say is, ''Look, Senator, in all due respect, people do not offer to take us

out. Lobbyists are not asking us to go out to dinner. They are not always contributing tickets for games, they are not paying for us to go to various events in the country, for our travel for ourselves or our spouses. And we do not think it is appropriate that you take those gifts either. Because whether or not this leads to undue influence, it certainly seems that way to us.''

I must say that it does become a part of the pattern of influence in Washington. It does become a part of the political culture in this city. And that is what makes it so profoundly wrong.

So, while I am not here to bash individual Senators or Representatives, or point the finger and say that somebody sold out for a particular lunch, I would say in the aggregate this is the way in which business is now conducted that does lead to a situation where too few people have way too much access and way too much say. And too many people, too many of the people we represent, are left out of the loop. That is why I think this will be such a fundamental debate later on.

Mr. President, we may get to it tonight or we may get to it tomorrow. I think we ought to be voting one way or another and we ought to be held accountable.

Again, I say to all of my colleagues, last year, 85 Senators and 3 of the 6 freshman Senators who served in the House, voted for this measure that Senator LEVIN, myself, Senator FEINGOLD, Senator LAUTENBERG, Senator MCCAIN and others have worked on. So I do not see why in the world now, especially when everybody has been talking about reform, there would be a retreat from this.

The majority leader himself, I think, last October 15 came out on the floor and said: No lobbyist lunches, no entertainment, no travel, no contributions to legal defense, no fruit baskets, no nothing. It could not be clearer. We will get to that later on.

At the moment, I say to colleagues, I hope there will be a coming together over the next couple of days. First, we will pass a good, strong, lobbying reform effort. This is very significant, what Senator LEVIN and COHEN have been working on. This goes to the heart of a really important reform issue that, by the way, people in the country care fiercely about.

It is not true that people in the country are not focused on good Government, are not focused on making Government more open and more accountable. This goes to the heart of that. So I think it is imperative that we come together and pass a strong reform effort in the lobbying reform area.

The same thing could be said for the gift ban, Mr. President. The same thing can be said for the gift ban. For my own part, I would like nothing better than to see Senators on both sides of the aisle come together and support two major reform initiatives in these two decisive areas, lobbying reform and gift ban.

On the other hand, when it comes to gift ban, given what I have seen on the Republican side so far, I do not view that as a step forward. I view it as a great leap sideways or backwards. If that is the case, then we will have a major, major debate and then all of us will be held accountable. But I say to colleagues: People in the country are serious about this. I think we can come through for people.

If we do, I think it will be good for the Senate. I think it will be good for the political process, the legislative process, in the future—in the distant future when many of us are no longer serving here. I think we can feel like we made a huge difference. And I certainly think it will go a significant ways toward restoring some confidence that I think people yearn to have in our political process.

The missing piece is the campaign finance reform piece which I also hope we will take up later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank our colleague from Minnesota for the tremendous energy and leadership which he has displayed in a whole host of reform efforts; first, on the gift ban, but also very actively involved in lobbying disclosure reform as well, and campaign finance reform. Those three reforms are the three most critical reforms that we need around this place if we are going to restore public confidence in Government. It is at a low point. It is tragic when that occurs. When public cynicism runs deep about a democratic Government, Government has to act to restore that public confidence. That is what we are in the midst of doing.

That famous handshake between the President and the Speaker of the House in New Hampshire was over that issue, reform. They spoke about a lot of other issues. They spoke about welfare reform and they spoke about a whole host of issues at that meeting with seniors. They talked about Medicare and Medicaid and Social Security. But when it came down to a handshake, where they reached to each other and said we have a deal, what that deal related to was political reform.

The people want us to change the way we do business in Washington. They want to feel, and they are entitled to feel, that this Government is their Government. When the public opinion polls show that the majority of Americans feel that lobbyists are the real power in Washington and only 22 percent think Congress is the power, and 7 percent think the President is the power, we must act to restore confidence that in fact their elected representatives will control the power in Washington.

Lobbying reform is the first item we are taking up. Hopefully, again, we are going to be able to do what no Congress for the last 50 years has done, which is to plug the loopholes in lobby disclosure laws which have resulted in these laws being useless and probably worse than useless.

How could a law be worse than useless? First of all, its presence on the books, if it is ignored, breeds disrespect for law. If the public is told there are lobby disclosure laws on the books, which there are, and if it knows most paid lobbyists do not register because of the loopholes in the law, then those laws are worse by being there than if they were not there at all. Better if you have no laws than to have laws that are such a sham and in such a shambles. Nothing breeds disrespect much more for law than having a law on the books, which is aimed at doing something, which totally fails to do something.

Another reason why it is worse than nothing to have those laws on the books is because it is producing ream on ream of paperwork, which takes time to produce, time to prepare, time to file, time to maintain, and which is giving us almost useless information, information which is not in a form which is useful to anybody. So we know probably a majority of the paid representatives in this town are not registering because of the loopholes in the law and those that do are giving us information which is not in a form which is usable by anybody.

So what we are engaged in here is to try to address the first big, major reform which is required if we are going to restore public confidence in Government and that is the lobbying disclosure bill, which is a bipartisan bill. Let me emphasize this. Senator COHEN has been working with me, Democrats and Republicans have been working on this issue, for a long time. The same thing is true with the gift ban. We have Democrats and Republicans who are supporting a strong gift ban.

So we are going to continue to try to work together today to see if we cannot finally pass a lobbying disclosure bill, and then once that is addressed and once that is resolved move on to the gift ban legislation.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me just reinforce one point that Senator LEVIN made. Again, I do not know anybody in the Senate that has provided more leadership for reform of good government than the Senator from Michigan over the years.

I do not know if it is the conventional wisdom here any longer, but at one point in time I think the conventional wisdom here in the Congress, Representatives and Senators, Democrats and Republicans alike—I make a nonpartisan point here—was these reform issues, lobbying disclosure reform, comprehensive gift ban reform, and also campaign finance reform. But let me take the lobbying disclosure reform and gift ban reform.

I think that unfortunately too many Democrats and Republicans alike believe that these reform issues are of interest to ''goo-goo,'' good government, people. There has been a certain cynicism about it. But it is just not true. There have been a lot of public interest organizations that have been at this for years—Public Citizen, Common Cause. You could go on an on. But the much more important point is that people yearn for good Government. They yearn for a political process they can believe in. These are no longer, if they ever were, reform issues. These are really issues that people talk about in their kitchens and their living rooms. I just think that we make a huge mistake when we try to stonewall the change.

So my hope, starting with lobbying disclosure reform and then with comprehensive gift ban reform, is that before the debate is over, we can in the next several days be very proud, all of us, that we will have made some huge changes, significant changes, positive changes. I think, if there is stonewall, to come up with measures that sort of have the label of reform but the closer you look at them the more dubious they are—in fact, they do not meet the credibility test—I think the worse off all of us will be.

So let us start with the lobbying disclosure reform. I say to the whip, let us move forward, let us come together, and let us pass something that we are all proud of. Then let us try to do exactly the same thing with comprehensive gift ban reform.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I indicated earlier I think we can see the light at the end of the tunnel in terms of the lobby disclosure bill. The Senator from Michigan indicated Friday afternoon, as he has further indicated this morning, his willingness to make some adjustments that I think move us a long way toward a truly bipartisan lobby disclosure bill.

The Senator from Michigan indicated that he is willing to double the threshold in terms of definition of a lobbyist from 20 percent of time spent over 6 months. That is something we are actively discussing now at the staff level in the hope of resolving it. The Senator from Michigan is also willing to double the threshold for registration and reporting by organizations. That certainly is a step in the right direction of protecting people's ability to petition the Congress. And the Senator from Michigan is making further efforts to clarify the grassroots lobbying communication exemption. Of course, that is critically important. These folks have constitutional rights, too, and deserve not to have them walked on by the Congress.

In addition to that, I think an important step in the right direction is the elimination of a new Government agency. Frankly, Mr. President, the last thing we need to do in this almost $5 trillion debt environment is to create yet another Government agency with yet more responsibility. It seems to me, the whole thrust of the 103d Congress is to go in the direction of less government. And clearly this bill ought to be consistent with that.

Mr. President, let me say that I think we need to reform our lobby registration and disclosure laws. I think we are on the threshold of being able to accomplish that in a way that does not unduly interfere with the rights of citizens, whether they are paid or not paid, to petition the Government because the courts make no distinction. You do not waive your constitutional rights because you are paid to represent a group that may be too busy to come to Washington. That is what lobbyists largely do, represent American citizens who choose not to become experts on legislation and employ someone else to speak for them. There is nothing un-American about that. Under the Constitution, we have the obligation not to interfere with this constitutional right to express ourselves that each of us enjoy.

Mr. President, with regard to the original bill, S. 101, the bill had set up a new Government agency. As I said earlier, we commend the Senator from Michigan for discarding that. It seems to me that clearly was not a good idea, and that moves us in the direction of passing this legislation.

The original bill, in my view, would have chilled the exercise of constitutional rights, and would have caused some who were inclined to contact the Congress with their views to simply refrain from doing so because of the fear of prosecution. The disclosure and reporting requirements in the original bill were clearly elaborate, and apply to virtually anyone with business before the Congress. And that would have the effect of keeping people from expressing their views to us. From my perspective, that is exactly the wrong message to be sending to the American people. We should welcome them to Washington. We should be glad to receive their views. We should not be making it so difficult for people to communicate with Congress that they choose to stay home and avoid telling us how they feel.

Third, the original bill, it seems to me, had some difficulties with regard to creating a patchwork of lobby regulations. It contained a host of exemptions that did not make sense. For example, why are public officials exempt? If the American people have a right to know how much the American Soft Drink Association, for example, spends on lobbying, then why not the city of New York, the State of California, or the U.S. Conference of Mayors?

Fourth, the original bill touched on grassroots activity. That goes down a road we do not need to go. And the Senator from Michigan is trying to make adjustments to clear that up. I commend him for that. We are working on that at the staff level as we speak to try to further clarify where we may be on that so that we can move forward with a compromise.

I have been working on an alternative. My alternative is clear and consistent. And most importantly, it is simple and will get those who lobby Congress registered so the public knows who is influencing public policy. Let me explain what the alternative I may propose would do.

First, the main problem with the lobby law is that it only reaches contacts with Members of Congress. Clearly, we all agree that those groups and individuals who contact Congress for the purpose of influencing matters pending before Congress, even if they contact staff, should be registered. So our alternative would apply to those who make more than a single contact with legislative branch officials on behalf of a client for the purpose of influencing any pending matter before Congress. And any pending matter means more than legislate. It means oversight hearings, investigations, and anything that is within the jurisdiction of a Member of Congress. The definition of lobbyist also includes the preparation and planning for lobbying meetings.

But where we disagree with the Senator from Michigan, at least in his original version, is the amount of time spent on lobbying that it takes to meet the definition of lobbyists. The Senator from Michigan has moved in our direction. I want to commend him again for that by raising the threshold to 20 percent of his or her time lobbying, therefore bringing you within the scope of the bill. Our concern is that such a definition could catch within its net those who work outside of Washington who have very limited contacts with Congress. So the definition I would prefer is to set the threshold at 25 percent. But obviously we are not too far apart here, a difference between 20 and 25 percent; that is, someone who spends one-quarter of his or her time, or a substantial part of his or her professional life, lobbying would then fall within the requirements of the alternative.

Another major difference is the scope of our bill. Senator LEVIN's original bill would reach executive branch lobbying as well as Congress. To accomplish that, Senator LEVIN in his original bill created a new Federal agency to enforce and administer the law. We part company with the need to address the executive branch lobbying and the establishment of a new Government agency to enforce the new law.

Now the Senator from Michigan has taken a different tack on that at this point, and I am pleased he has. I think that certainly makes it much more likely we can finish up this legislation on a bipartisan basis. As I indicated earlier, the American people did not send us here to create more Federal Government, and the movement away

from it is certainly welcomed, certainly by me and I think many on both sides of the aisle.

The Secretary of the Senate and the Clerk of the House are well suited to continue receiving lobby registration forms. These offices can improve the dissemination of this information, making it more user friendly for the public. That is what our alternative aims to do.

As far as the executive branch coverage, an item we are still discussing here as we hope to work this matter out, my view is it is just not necessary. Contacts with the executive branch are highly regulated under the Administrative Procedure Act. Regulations are formulated by a very detailed process that allows interested parties to participate. And Congress always has oversight and legislative power over regulations issued by Aencies. Administrative adjudication is also a formal process.

Moreover, we know from the experience of the health care task force run by the First Lady that efforts by the executive branch to make policy in secret generally backfire anyway. And a legal challenge has resulted in that particular case in all of that information becoming public.

So, Mr. President, from our point of view, we should clean up our own house. Let us get the right coverage of lobbyists who lobby us here in the Congress. Let us get information related to their work properly available and disclosed to the public. Let us not make registration and disclosure so cumbersome that we signal to the American people that their voices are simply not welcome here in Washington. We want their input. We encourage Americans to join organizations that represent their views, and we hope they will let us know what they think.

When James Madison wrote Federalist No. 10, he envisioned a competition of ideas from, as he put it, ''factions.'' Today, we would call those factions lobbyists. We who are elected to represent our constituents are called upon to build consensus among the various factions. Where we are unable to build consensus, we are called upon to choose from among the competing ideas put forward by the lobbyists or, if you will, the factions.

So there is nothing wrong with lobbying. It is not an evil thing. It was envisioned by the Framers. It is part of our Constitution's first amendment which protects free speech and petitioning the Government with grievances.

And finally, while lobbying is an honorable profession, we want to make sure that those who abuse the public trust they hold as lobbyists are punished for their misdeeds. We propose to let the U.S. attorney prosecute those who violate the law. The first offense would be subject to civil sanctions and subsequent offenses would be subject to criminal penalties. We want lobbyists to register; we want their activities disclosed, but let us not chill protected constitutional rights in the process.

Mr. President, the discussions on this matter are proceeding. And again, let me say we are hoping we can achieve at least close to a consensus on the lobby disclosure bill which we can pass by an overwhelming margin sometime later today or tonight.

Mr. President, I do not see anyone else wishing to address the Senate. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCAIN). Without objection, it is so ordered.

Mr. LOTT. Mr. President, there are active negotiations underway on language in the lobby reform bill. I think we are making progress and some important changes and agreements have already been reached. There are a few areas where, obviously, there is still some disagreement or some lack of clarity as to what it would do.

Since the principals are here on the floor, it would be helpful, I believe, if we go ahead and recess until a time certain to allow the principals in this legislation to talk directly.

Also, we hope, when we come back in after that recess, we will be able to get an agreement on a specified time, agreed-to time to vote on or in relation to the McCain amendment. It may be other amendments will be ready at that time, but at least we would like to get an agreement to get a vote at 5:45 on the McCain amendment.

RECESS

Mr. LOTT. Therefore, Mr. President, I now ask unanimous consent the Senate recess until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate stands in recess until the hour of 1:30 p.m. today.

Thereupon, at 12:47 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

LOBBYING DISCLOSURE ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is S. 1060.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I know this afternoon we will be focusing on the lobbying disclosure reform effort. Senator FEINGOLD and I, of course, are strong supporters of that, as are Senators LEVIN and COHEN, and others.

I ask unanimous consent that we might have up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE GIFT BAN LEGISLATION

Mr. WELLSTONE. Mr. President, this is a discussion the Senator and I choose to have now, possibly tonight, and then I would imagine through tomorrow as well. We will be involved in I think a major debate about the gift ban reform effort.

I thought that the Senator from Wisconsin and I might talk a little bit about what is at issue here. I will start out for a few moments, and then we will go back and forth. I have some questions which I want to put to the Senator, and I think he has some questions he wants to put to me as well.

Mr. President, just to be crystal clear, there is no question in my mind that people in the country really, as I have said before, yearn for a political process that they can believe in, one that really is accountable, that is open, and that has real integrity.

We have been working on a gift ban. I ask the Senator from Wisconsin how long we have been working on this comprehensive gift ban legislation with Senator LAUTENBERG and Senator LEVIN.

Mr. FEINGOLD. It seems like we have been talking about it for about 2 years. We sort of came to this in different ways. I got here in the Senate, and I just knew that as a State senator from Wisconsin, we had a law that said you cannot even accept a cup of coffee from a lobbyist. I understood that in the 10 years I was in the State senate. I was a little surprised to find out they did otherwise here.

So we put this in effect for myself and my staff, and then I found out independently that the Senator from Minnesota, from another reform-minded State, was working an overall bill that would apply that to all Members of Congress. We obviously crossed paths and thought that would make sense as part of a broader effort to try to get the influence of big private money a little bit more out of Washington. We got other supporters as time went on. That is how it really started.

Mr. WELLSTONE. Mr. President, let me go on to say to my colleague that we have become close friends. We come from a similar part of the country, and we come from reform-minded States.

It is interesting. I became interested in this initiative because shortly after I had been elected, I was on a plane. A guy came up to me, without using any names, by the way. I will not for a moment say there was anything about the conversation that I would call corrupt. But he came up to me and asked me whether I liked athletics. I said, ''I love