

**Calendar No. 564**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-212 }

LOBBYING DISCLOSURE IMPROVEMENT ACT

—  
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 4893

TO AMEND THE LOBBYING DISCLOSURE ACT OF 1995 TO  
REQUIRE CERTAIN DISCLOSURES BY REGISTRANTS  
REGARDING EXEMPTIONS UNDER THE FOREIGN AGENTS  
REGISTRATION ACT OF 1938, AS AMENDED



NOVEMBER 17, 2022.—Ordered to be printed

—  
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LOBBYING DISCLOSURE IMPROVEMENT ACT

NOVEMBER 17, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

**R E P O R T**

[To accompany S. 4893]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4893) to amend the Lobbying Disclosure Act of 1995 to require certain disclosures by registrants regarding exemptions under the Foreign Agents Registration Act of 1938, as amended, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary .....	1
II. Background and Need for the Legislation .....	2
III. Legislative History .....	2
IV. Section-by-Section Analysis of the Bill, as Reported .....	2
V. Evaluation of Regulatory Impact .....	3
VI. Congressional Budget Office Cost Estimate .....	3
VII. Changes in Existing Law Made by the Bill, as Reported .....	5

I. PURPOSE AND SUMMARY

S. 4893, the *Lobbying Disclosure Improvement Act*, amends the Lobbying Disclosure Act (LDA) of 1995. It would improve oversight of lobbyists for foreign entities by requiring LDA registrants to indicate whether they are taking advantage of a Foreign Agents Registration Act (FARA) provision that exempts them from registering under FARA.

## II. BACKGROUND AND THE NEED FOR LEGISLATION

FARA exempts lobbyists who are agents of foreign persons or organizations (but not foreign governments or political parties) from registering under that law if they are properly registered under the LDA.<sup>1</sup> However, the standard by which the Department of Justice (DOJ) applies the exemption has often lacked clarity, particularly the threshold by which it is determined whether lobbying activities primarily benefit a foreign government as opposed to a foreign individual or organization.<sup>2</sup> Additionally, some lobbyists for whom the exemption should not apply are incentivized to improperly take advantage of the exemption because the requirements for LDA registration are much less stringent than those for FARA.

FARA enforcement at DOJ is chronically under-resourced, and currently there is no way for enforcement officials to easily identify LDA registrants who use this exemption.<sup>3</sup> The bill would simply require LDA registrants to indicate, as part of their registration, whether they are taking advantage of the FARA exemption. This would help DOJ officials narrow the pool of LDA registrants they examine for potential violations, while not imposing any meaningful additional burden on registrants.

## III. LEGISLATIVE HISTORY

Chairman Gary Peters (D–MI) introduced S. 4893, the Lobbying Disclosure Improvement Act, on September 20, 2022, with Senator Chuck Grassley (R–IA). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4893 at a business meeting on September 28, 2022. The bill was approved by voice vote *en bloc* with Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Johnson, Paul, Lankford, Romney, Scott, and Hawley present.

## IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

### *Section 1. Short title*

This section provides that the Act may be cited as the “Lobbying Disclosure Improvement Act.”

### *Section 2. Registrant disclosure regarding foreign agent registration exemption*

This section amends the LDA by adding a new requirement that LDA registrants indicate whether they are taking advantage of a FARA provision that exempts them from registering under section 3(h) of FARA.

<sup>1</sup> 22 U.S.C. § 613(h).

<sup>2</sup> *Enhancing the Foreign Agents Registration Act of 1938: Hearing before the House Committee on the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties*, 117th Cong. (April 5, 2022) (Testimony of Dylan Hedtler-Gaudette, Government Affairs Manager, Project On Government Oversight), available at <https://docs.house.gov/meetings/JU/JU10/20220405/114580/HHRG-117-JU10-Wstate-Hedtler-GaudetteD-20220405.pdf>.

<sup>3</sup> Project on Government Oversight, *Loopholes, Filing Failures, and Lax Enforcement: How the Foreign Agents Registration Act Falls Short*. (Dec. 16, 2014) available at [https://docs.pogo.org/report/2014/pogo-fara-report-20141216.pdf?\\_ga=2.243251271.49320974.1668452543-1746055107.166845254](https://docs.pogo.org/report/2014/pogo-fara-report-20141216.pdf?_ga=2.243251271.49320974.1668452543-1746055107.166845254).

## V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 9, 2022.*

Hon. GARY C. PETERS,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

## SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislations estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

**ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION**

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 4893	Lobbying Disclosure Improvement Act	Ordered reported	09/28/22	800	Between zero and \$500,000	Between zero and \$500,000	Not estimated	Yes	No	Yes	Matthew Pickford

S. 4893 would amend the Lobbying Disclosure Act to require anyone registering as a lobbyist to disclose any claimed exemption from the Foreign Agent's Registration Act. CBO estimates that enacting S. 4893 would have an insignificant effect on direct spending and revenues over the 2023-2032 period. CBO has not estimated the discretionary costs of implementing the bill. The bill would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) that would not exceed the annual threshold of \$184 million in 2022 (adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.

## VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

## UNITED STATES CODE

\* \* \* \* \*

### TITLE 2—ORGANIZATION OF CONGRESS

\* \* \* \* \*

#### CHAPTER 26—DISCLOSURE OF LOBBYING ACTIVITIES

\* \* \* \* \*

##### SEC. 1603—Registration of Lobbyists

(a) \* \* \*

(b) Contents of registration

Each registration under this section shall contain—

(1) \* \* \*

\* \* \* \* \*

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 20 years before the date on which the employee first acted as a lobbyist on behalf of the client, the position in which such employee served; **[and]**

(7) for any listed lobbyist who was convicted in a Federal or State court of an offense involving bribery, extortion, embezzlement, an illegal kickback, tax evasion, fraud, a conflict of interest, making a false statement, perjury, or money laundering, the date of the conviction and a description of the offense.

No disclosure is required under paragraph (3)(B) if the organization that would be identified as affiliated with the client is listed on the client's publicly accessible Internet website as being a member of or contributor to the client, unless the organization in whole or in major part plans, supervises, or controls such lobbying activities. If a registrant relies upon the preceding sentence, the registrant must disclose the specific Internet address of the web page containing the information relied upon. Nothing in paragraph (3)(B) shall be construed to require the disclosure of any information about individuals who are members of, or donors to, an entity treated as a client by this chapter or an organization identified under that paragraph **[.]**; *and*

*(8) a statement as to whether the registrant is exempt under section 3(h) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 613(h)).*

\* \* \* \* \*

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