

Calendar No. 491

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-150

DISCLOSING FOREIGN INFLUENCE IN
LOBBYING ACT

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4254

TO AMEND THE LOBBYING DISCLOSURE ACT OF 1995 TO
CLARIFY A PROVISION RELATING TO CERTAIN CONTENTS OF
REGISTRATIONS UNDER THE ACT



SEPTEMBER 20, 2022.—Ordered to be printed

—
U.S. GOVERNMENT PUBLISHING OFFICE

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SEPTEMBER 20, 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. 4254]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4254) to amend the Lobbying Disclosure Act of 1995 to clarify a provision relating to certain contents of registrations under that Act, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 4254, the Disclosing Foreign Influence in Lobbying Act, requires disclosure of foreign governments and political parties that exert control or influence over lobbying activities, regardless of whether they are funding the lobbying activities.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Lobbying Disclosure Act of 1995 (LDA) imposes comprehensive disclosure and registration requirements on lobbyists who contact covered legislative and executive branch officials. Under Sec-

tion 4(b)(3) of the LDA (2 U.S.C. § 1603(b)(3)), a registrant must disclose any organization, other than the client, that “actively participates” in lobbying and contributes over \$5,000 to the registrant or the client. Section 4(b)(4) of the LDA (2 U.S.C. § 1603(b)(4)), imposes alternative tests for disclosure for any “foreign entity” that owns 20% of a client or an organization contributing to lobbying activities, in whole or in major part directs or finances a client or organization contributing to lobbying activities, or is an affiliate of a client or organization and has a direct interest in the outcome of the lobbying activities.

However, experts have identified instances in which, due to political climate, government structure, or other factors, some foreign governments and political parties are able to exert significant control over lobbying organizations without having a direct financial stake in lobbying activities. According to a January 2021 report from the Center for Strategic and International Studies, since 2012, the Chinese Communist Party (CCP) in particular is promoting a new form of corporate governance that calls for inserting provisions directly into corporate charters that give the company’s internal CCP organization a voice in management decisions.¹ Reports by law enforcement organizations to Congress establish that the CCP is able to use its role in private companies to advocate for CCP interests and that other foreign governments or political parties would be able to engage similarly.²

The “Disclosing Foreign Influence in Lobbying Act” closes the LDA loophole that allows such foreign governments and political parties to escape disclosure by establishing a new test requiring disclosure of any participation by a foreign government or political party in the direction, planning, supervision, or control of lobbying activities, regardless of financial contribution, ownership of the client, or other financial incentive.

III. LEGISLATIVE HISTORY

Senator Chuck Grassley (R-IA) introduced S. 4254, Disclosing Foreign Influence in Lobbying Act, on May 18, 2022, with Chairman Gary Peters (D-MI), Senator Ben Sasse (R-NE), Senator Richard Durbin (D-IL), Senator John Cornyn (R-TX), Senator Margaret Wood Hassan (D-NH), and Senator Kyrsten Sinema (D-AZ). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4254 at a business meeting on May 25, 2022. The bill was ordered reported favorably by voice *en bloc*. Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Romney, Scott, and Hawley were present.

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

Section 1. Short title

This section establishes the short title of the bill as the “Disclosing Foreign Influence in Lobbying Act.”

¹Center for Strategic and International Studies, *The New Challenge of Communist Corporate Governance* (Jan. 2021) (https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210114_Livingston_New_Challenge.pdf).

²Federal Bureau of Investigation, Briefing with Senate Judiciary Committee Staff (Feb. 4, 2022).

Section 2. Clarification of contents of registration

This section adds a provision to the Lobbying Disclosure Act of 1995 requiring registrants to disclose foreign governments and political parties that exert control or influence over lobbying activities, regardless of whether they are funding the lobbying activities.

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, August 23, 2022.

Hon. GARY 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 cost estimate for S. 4254, the Disclosing Foreign Influence in Lobbying Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 4254, Disclosing Foreign Influence in Lobbying Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 25, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

S. 4254 would amend the Lobbying Disclosure Act of 1995 to require lobbyists to identify any connection with a foreign government or political party that plans, supervises, directs, or controls any effort of that lobbyist, regardless of those entities' financial contributions to the lobbying effort. CBO estimates that implementing the bill would not significantly increase the administrative costs of the House of Representatives or the Senate over the 2022–2027 period. Any spending would be subject to the availability of appropriated funds.

Failure to disclose the newly required information could increase collections of civil fines, which are recorded in the budget as revenues. CBO estimates that those collections would not be significant in any year or over the 2022–2032 period because of the relatively small number of cases likely to be affected.

S. 4254 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by requiring lobbyists to disclose information on foreign governments and foreign political parties that participate in or supervise their lobbying activities. CBO estimates that the cost of the mandate would not exceed the annual private-sector threshold established in UMRA (\$184 million in 2022, adjusted annually for inflation).

S. 4254 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs) and Andrew Laughlin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

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) * * *

(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 **[.]**; *and*

(8) notwithstanding paragraph (4), the name and address of each government of a foreign country (including any agency or subdivision of a foreign government, such as a regional or municipal unit of government) and foreign political party, other than the client, that participates in the direction, planning, supervision, or control of any lobbying activities of the registrant.

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