



To: Members of the Senate Federalism Committee
From: Brian Boyle, Chief Program Officer & General Counsel, American Promise
Re: SCR 1012
Date: February 10, 2025

Testimony Concerning SCR 1012

Chairman Finchem and Honorable Members of the Federalism Committee – thank you very much for the opportunity to testify this afternoon.

My name is Brian Boyle, and I am the General Counsel and Chief Program Officer for American Promise. We are an organization with a singular focus: helping to mobilize support across the country for a constitutional amendment that would restore the power of the states to decide whether and how to regulate money in their political system.

In my remarks this afternoon, I'd like to cover three things:

- First, what is the nature of the **problem** when it comes to money in politics? What are the types of threats it presents, and why is it a *constitution-level* problem?
- Second, what is the **solution**? How would a potential amendment to the United States Constitution address this problem?
- Third, what is **your role** in all of this? How can you be part of creating a solution that the people of Arizona, and the people all across this country, would very much like to see?

First – what's the **problem**? Well, to explain the problem, I don't think I can put it much better than Chairman Finchem did when I met with him a couple weeks ago. He said,

“When it comes to money in politics, the whole system is sort of like an oven in your kitchen. It goes from zero to five hundred – and 500 is really blazing. Right now, money in politics in this country is at 450, and it’s only getting hotter. And maybe we should be able to dial it down.”

So what’s going on? It’s not just about the *amount* of money in the political system, although that in itself is pretty astounding. It’s also about *where* the money is coming from. And it’s about *whether we even know* where the money is coming from. Here are just a few data points:

- You’ve all run for office, so you know that some of the money goes directly to candidates in the form of contributions. But there’s also a lot of “outside money” or so-called “independent spending.” If you look at the data for federal elections, in 2008 the total amount of [outside spending](#) was just about \$574 million. Last year, in 2024, the total amount of outside spending was nearly \$4.5 billion – a 900% increase in just 15 years.
- Now consider the sources of the money in the system. Back in 2008, there were just 100 people in the country who were responsible for 1.5% of all federal election spending. In 2024, the [top 100 donors](#) were responsible for nearly 15% of all federal spending. That’s a very, very small group of people – small enough to fit comfortably inside this room – who are responsible for a huge portion of the money that flows through the system.
- Another dynamic that you’re probably all familiar with is out-of-state money. A few years ago, there was a law review article that came out called [The Geography of Campaign Finance Law](#). It surveyed a bunch of the data and said this: “donors in five percent of the nation’s zip codes—concentrated in the nation’s major metropolitan areas—contribute more than three times as much in itemized contributions to federal elections than the rest of the country combined.” People talk about these as “donor zip codes.” These are the handful of very wealthy

places that are flooding the rest of the country with their money. I'm sure this is a dynamic that you've seen yourselves.

- Just consider the recent [race for U.S. Senate in Arizona](#). When you take a look at the data about itemized contributions from individuals, it tells an interesting story. Kari Lake raised nearly \$17 million dollars, and 73% of that came outside of Arizona. Ruben Gallego raised nearly \$36 million dollars, and 76% of that came from out-of-state.
- Lastly, when it comes to where the money is coming from, perhaps the most worrying fact is that foreign money is also making its way into our American elections. To give one stark example: In the [state of Maine](#), over \$100 million dollars flowed into that state's ballot elections from foreign government-owned or foreign government-influenced corporations.

Now, I'm not here to list all of the shocking examples of how money is influencing our elections. I'm just trying to give a sense of the scope of the problem. It's a ton of money, it's concentrated money, it's out-of-state money, and it's even foreign money.

Those are some of the reasons why [8 in 10 Americans](#) say that they are concerned about the influence of money in politics. And that's why, last year, "reducing the influence of money in politics" was the [number three priority](#) for Americans when they were asked what they hoped Congress and the President would focus on.

Now, point two, what about the **solution**? Really, what we need is a solution designed to address a simple question: Who decides?

Who decides whether foreign money should be able to flow into Arizona's – or any state's – elections?

Who decides whether outside billionaires – people who've never stepped foot in your state – should be able to dominate Arizona's elections with all their money?

Who decides whether or not the true sources of money in politics should be known to the voting public?

For the past 50 years, the Supreme Court has said: We decide. Not you. Not the people. Us. This first began back in the 1970s with a case called *Buckley v. Valeo*, and it has continued over the past five decades. The Court has essentially transformed the federal judiciary into the nation's campaign finance policymaker.

But I believe – and the proposed constitutional amendment would take the view – that the people of Arizona, and the people of all states, should be able to decide the answers to these types of questions for their state.

Now, purely as a matter of policy, you might like or agree with some of the particular campaign finance rules that the Supreme Court has created over the past 50 years. Nothing in the proposed amendment would require you to have a different rule if you didn't want one. But what this amendment says is that *you* should get to decide the rules for Arizona.

Making campaign finance policy is not a judicial function, and the courts are not engaged in legal interpretation when they make campaign finance rules. They are making policy. And right now, the policy that has been created by judges over the years is putting federalism and American sovereignty at risk.

Under the current judge-made system, foreign governments and actors – many of whom don't share America's interests – can secretly pour untraceable money into elections through dark money groups.¹

¹ For the Committee's reference, I've attached as Exhibit 1 to this written testimony a recent report on the problem of foreign money in politics.

And when states try to curb such spending by foreign interests – as Ohio and Maine have recently done – those state laws get stalled or struck down in court. Maybe we can cross our fingers and hope that if and when these laws make their way to the Supreme Court, the Court will decide the way we want it to.

But should states' ability to protect the integrity of their elections depend on whether five members of the Court happen to agree with that state's decisions?

That's why the solution is an amendment to the U.S. Constitution that would restore the power of states to protect their elections from foreign and outside influence. Passing an amendment to the U.S. Constitution would put these types of decisions back where they belong. Who would decide? With this amendment, you would decide.

Now, my last point: what's *your role*?

As members of this committee and the state legislature, you have been chosen by your constituents to lead. The resolution before you today is meant to send a message to Washington, D.C. — to say: “We’ve had enough of the status quo, and we support an amendment that would restore our power to decide how to deal with the influence of money in politics.”

I can assure you — this resolution *will* matter, it *will* be powerful. When state lawmakers like yourselves support these resolutions, the people in D.C. take notice.

Thank you for the opportunity to testify this afternoon. I encourage you to vote in favor of SCR 1012. I would be happy to answer any questions.

EXHIBIT 1

THE PROBLEM OF FOREIGN MONEY IN POLITICS

2024 UPDATE



THE PROBLEM OF FOREIGN MONEY IN POLITICS

In November 2023, American Promise released [The Problem of Foreign Money in Politics](#), a report detailing the ways in which foreign money makes its way into state and federal elections in the United States. The report described how alarmingly easy it is for foreign actors to influence election outcomes by funneling money into our campaign finance system.

With the 2024 election likely to wind up as one of the [most expensive electoral cycles](#) in American history, with almost \$16 billion in federal election spending, we wanted to revisit some of the existing vulnerabilities in our electoral system.

Dark money groups can be vectors of foreign influence.

The term “dark money” refers to money spent in elections by groups that aren’t required to disclose their funders. For example, 501(c)(4) organizations are not required to disclose their donors, but they are permitted to spend money to influence elections. Although it is virtually impossible to know the full extent to which foreign money is making its way into our elections, there are some high-profile examples. Recently the Berger Action Fund, a nonprofit backed by Swiss billionaire Hansjörg Wyss, transferred [more than \\$60 million](#) to progressive groups in 2022 and 2023.

\$35 MILLION
SENT TO THE SIXTEEN
THIRTY FUND FROM
BERGER ACTION
FUND

One major nonprofit that receives funding from the Berger Action Fund is the Sixteen Thirty Fund, a dark money nonprofit that received \$35 million from Berger Action between 2022 and 2023.

\$150 MILLION
GIVEN BY SIXTEEN
THIRTY FUND TO
DEMOCRAT-ALIGNED
GROUPS.

Sixteen Thirty Fund gave out more than \$150 million to Democrat-aligned groups between 2022 and 2023, and more recently, [gave \\$6 million](#) in May 2024 to a redistricting ballot initiative in Ohio.

Online fundraising platforms can be exploited by foreign actors.

Online fundraising platforms that do not properly verify the identity of donors could be vulnerable to receiving donations from foreign actors, whether intentionally or not. When they do not require a CVV number or billing address, it makes it far more difficult for the platform to identify and block illegal [contributions made by foreign nationals](#).



Foreign Money Concern

The fundraising platform ActBlue, which has processed billions of dollars in donations for Democratic candidates and causes, has been criticized for not requiring CVV codes for all donations made with credit cards.



Legislative Response

In response to this vulnerability in the campaign finance system, Congressman Bryan Steil (R-WI) recently introduced the [Secure Handling of Internet Electronic Donations \(SHIELD\) Act](#), which would prevent all political committees from accepting donations from credit and debit cards without a CVV and billing address.



Investigation Request

In October 2024, Representative Steil and Senator Ron Johnson [sent letters](#) to the Director of National Intelligence, the Director of the FBI, and the Secretary of the Treasury. In those letters, they state that investigation by the Committee on House Administration has uncovered potential abuses of ActBlue’s services by foreign actors to launder money into American campaigns, and they request briefings from those departments on how they are investigating foreign interference in our elections.

Foreign adversaries view our elections as an opportunity to destabilize America.

We already know that America’s foreign adversaries are seeking to exert influence in our elections. [A briefing](#) from the Office of the Director of National Intelligence (ODNI) identified election influence attempts from China, Russia, and Iran.



China has been identified as seeking to influence down-ballot races. Its influence efforts focus on candidates it views as “particularly threatening to core PRC security interests,” and to advance candidates it views as pro-China.



Russia also seeks to weaken the United States and spread pro-Russian talking points through online influence campaigns and false news sites, in service to their “broader foreign policy goals of weakening the United States.”



The ODNI found that Iran seeks to “stoke discord and undermine confidence in our electoral process,” by spreading misinformation on social media and a “hack-and-leak operation against the former president’s campaign.”

Foreign governments are bribing American officeholders.

Foreign actors have been brazen in their attempts to influence American officeholders, to the point of directly offering cash gifts and other financial rewards in exchange for preferential treatment.

[NYC Mayor Eric Adams](#) has been indicted by federal prosecutors on multiple charges, including solicitation of a contribution by a foreign national. Prosecutors allege that Adams' campaign disguised foreign contributions as being from American citizens, leading to his campaign receiving over \$10 million in matching public funds.

[Former Senator Bob Menendez](#) (D-NJ) was convicted on corruption charges for taking bribes in the form of cash and gold bars from Egyptian agents in exchange for using his position as chairman of the Senate Foreign Relations Committee to benefit Egypt, including helping it access millions of dollars in U.S. military aid.



Courts are blocking state laws designed to protect the integrity of the electoral system.

In Maine, after clear evidence of foreign interference that was legal under existing campaign finance laws, 86% of voters responded by passing the Protect Maine Elections ballot initiative to prohibit spending by foreign nationals in the state's ballot elections. Within weeks of the new law's passage, two foreign-owned utility companies filed suit to block the law. In February 2024, a federal district court [granted a preliminary injunction](#) to prevent the law from going into effect.

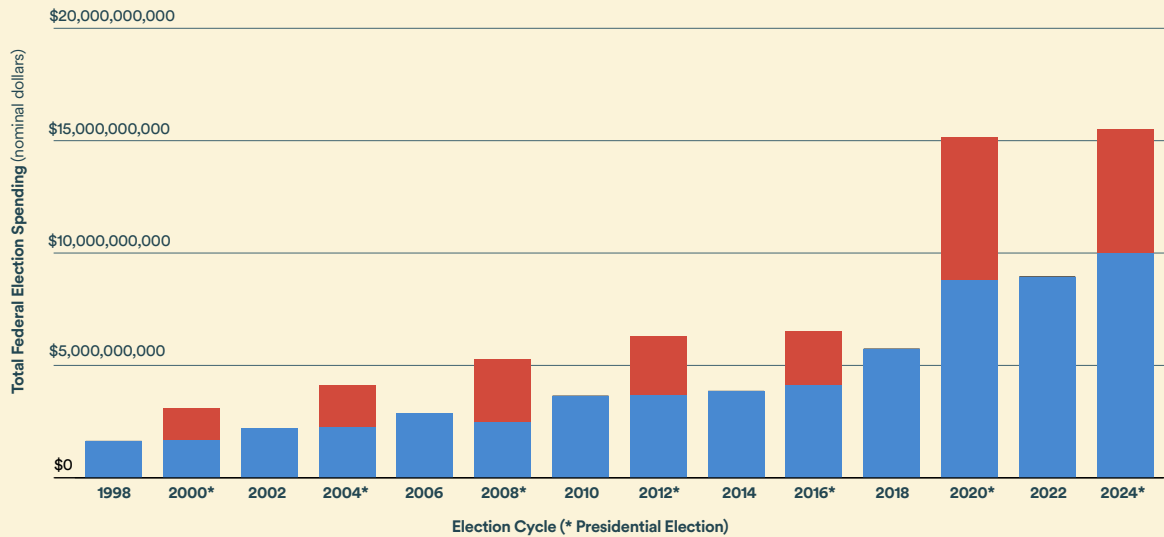
In Ohio, a bill to ban foreign money from the state's ballot elections was passed by the legislature and signed into law by Republican Governor Mike DeWine in June. In September 2024, a [federal district court initially blocked the law](#) on the grounds that it "infringes on lawful resident foreign nationals' First Amendment right to political speech." In other words, although the state's legislature and governor passed the law to protect the integrity of Ohio's ballot elections against foreign influence, a federal district court overrode that decision by stopping the law in its tracks. Although the Sixth Circuit recently allowed the law to [take temporary effect](#), litigation is ongoing and the law remains vulnerable.

Our current campaign finance system makes it extremely difficult, if not impossible, to understand the true scope of the problem.

As mentioned above, the 2024 election is estimated to have seen [almost \\$16 billion](#) in total federal election spending, the highest ever election spending total (in nominal dollars). The sheer amount of money flowing into our elections makes it difficult for any investigative organization or regulatory body, let alone an individual citizen, to track the web of influence networks and donors that fuel this spending.

A Record-Breaking Election

■ Congressional Races ■ Presidential Race



Source: OpenSecrets.org

In particular, the prevalence of dark money, which allows donors to hide their identity by funneling contributions through nonprofit organizations and shell companies, leaves our elections vulnerable to foreign influence. The 2024 election saw [more than \\$1 billion](#) in dark money contributions, primarily from 501(c)(4) nonprofits that do not have to disclose their donors and can [legally take contributions from foreign entities](#).

Liberal dark money groups [spent more than double](#) their conservative counterparts in 2024, and [Democrats benefited more from dark money](#) in 2018, 2020, and 2022.

Foreign money and influence is a significant threat to our elections, but courts are blocking the attempts of legislators and citizens to solve this problem, based on the Supreme Court's misguided doctrine that equates spending to speech. We need a better constitutional framework for dealing with money in politics. The solution is the [For Our Freedom Amendment](#), which would restore the ability of the States and Congress to pass reasonable regulations on campaign finance and secure our elections from foreign interference.





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