



To: Members of the Senate Judiciary Committee  
From: Brian Boyle, Chief Program Officer & General Counsel, American Promise  
Re: SJ0008  
Date: February 5, 2025

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### **Testimony Concerning SJ0008**

Chairman Olsen and Honorable Members of the Judiciary 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.

I started out as an American Promise volunteer. I was just a regular lawyer who cared a lot about federalism and about the original meaning of the Constitution, and I had real doubts about whether the Supreme Court’s modern approach to campaign finance was consistent with federalism or originalism. As I learned more about this potential constitutional amendment, I realized that it really comes down to a simple question: Who decides?

Who decides whether foreign money should be able to flow into Wyoming’s – or any state’s – campaigns and elections?

Who decides whether outside billionaires – people who’ve never stepped foot in your state – should be able to dominate Wyoming’s elections with massive amounts of money?

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

For the past 50 years, the Supreme Court has said: We decide. Not you. Not the people. Us.

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

Now, purely as a matter of policy, you might like or agree with some of the 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 Wyoming.

Making campaign finance policy is not a judicial function, and the Court is not engaged in legal interpretation when it makes campaign finance rules. They are making policy through judicial fiat. 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.<sup>1</sup> You might have heard, for example, of Swiss billionaire

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<sup>1</sup> 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.

Hansjörg Wyss, who has transferred more than \$500 million towards progressive causes up and down the ballot.

And when states try to curb such spending by foreign interests – as Ohio and Maine recently have done – those state laws get stalled or struck down in court. Maybe we can all 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?

An amendment to the U.S. Constitution is necessary to 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? You would decide.

Thank you for the opportunity to testify this afternoon. I encourage you to vote "aye" on SJ0008 in support of this constitutional amendment, and 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.

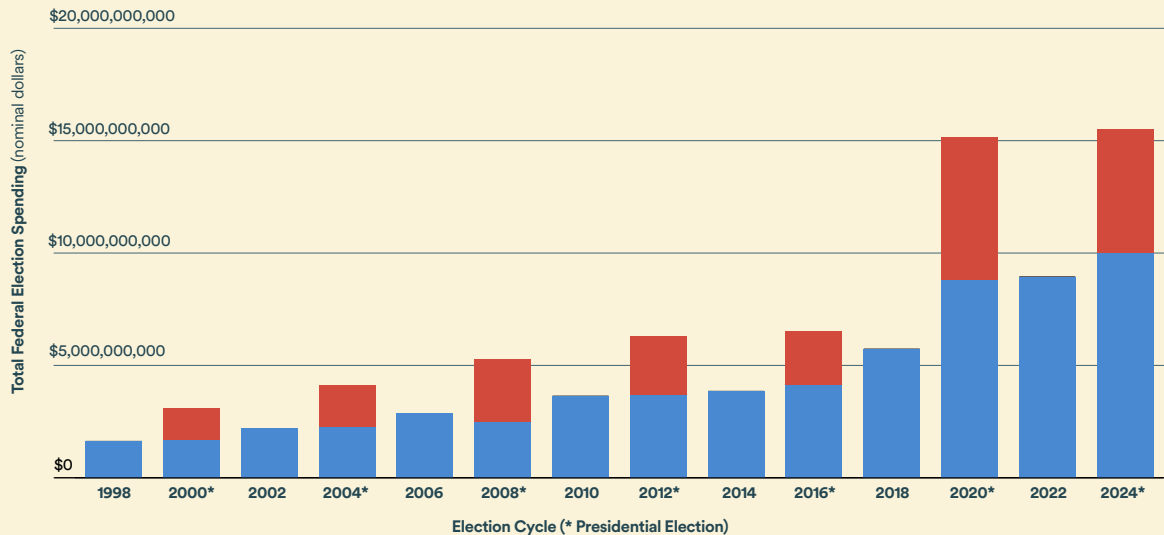
## Our current campaign finance system makes it extremely difficult, if not impossible, to understand the true scope of the problem.

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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