

## KEEPING FOREIGN MONEY OUT OF OUR ELECTIONS

### *H.R. 2852: The Election Protection & Integrity Certification (EPIC) Act*

Foreign money impacting American elections is toxic to our democracy. Voters and members of Congress alike are frustrated because current laws are insufficient to determine whether foreign money has tainted an election. And they want accountability.

Long-standing law prohibits foreign nationals from making campaign contributions or spending money on American elections.<sup>1</sup> That is true for any federal, state or local election. But this prohibition has done little to stop foreign money from attempting to influence American elections. In fact, it is now easier than ever for foreign money to be funnelled into our elections.

Since politically active nonprofits may accept foreign donations, the public cannot be sure that foreign money is not seeping into our elections. That is because there is no meaningful disclosure of these nonprofit groups' election activities.

#### Problems with the current law:

In its 2010 decision *Citizens United v. Federal Election Commission*, the U.S. Supreme Court held that it was unconstitutional to prohibit corporations, including certain nonprofit organizations, from using their treasury funds to engage in campaign activities. As a result, a growing number of nonprofits organized under section 501(c) of the tax code are spending money to influence election outcomes. Under current FEC enforcement procedures, these organizations can accept foreign contributions, ostensibly for non-election purposes, at the same time that they are engaging in election activities. And since these groups do not have to disclose their donors, and often do not have to disclose their election activities, it is nearly impossible to assess whether foreign money is influencing our elections.

#### High-profile examples:

- ▶ **In the 1996 elections**, the Senate Governmental Affairs Committee noted<sup>3</sup> a questionable source of \$1.6 million in contributions organized by John Huang and Ted Sioeng, an Indonesian with close ties to China, who funneled money to the Democratic Party. The Committee found that of the \$400,000 that Mr. Sioeng gave to the Democrats, half came from the Chinese government.
- ▶ **In 2008**, an executive of a biotech company was indicted for soliciting and making illegal cash contributions on behalf foreign nationals to the election campaign of Senator Lindsay Graham (R-SC). Jian-Yun Dong was found guilty on all but one count relating to illegal campaign contributions.<sup>4</sup>
- ▶ **In 2014**, federal prosecutors brought a case against a Mexican businessman who they alleged “funneled

***“Right now there is a loophole in our campaign finance laws that would allow foreign contributors to use their wealth to influence our elections. I’m proud to work with Representatives Jones (R-NC) and Peters (D-CA) to close this loophole, bring some sunlight to the murky world of campaign spending, and make sure that groups engaged in campaigns don’t have a backdoor to allow foreign contributions in.”***

Rep. Derek Kilmer (D-WA)<sup>2</sup>

more than \$500,000 into U.S. political races through super PACs and various shell companies.”<sup>5</sup> According to prosecutors, the contributions went from Jose Susumo Azano Matsura, a construction company owner, to three Democratic politicians and San Diego’s Republican District Attorney. In 2016, Azano’s son was also indicted.<sup>6</sup>

- ▶ **The 2016 election cycle** saw strong allegations of Russian interference. Senator John McCain (R-AZ), chair of the Senate Armed Services Committee, declared that “every American should be alarmed by Russia’s attacks on our nation.”<sup>7</sup> In January 2017, the National Intelligence Council released a “declassified version of a highly classified assessment” of Russian activities and intentions, concluding that President Vladimir Putin ordered an “influence campaign” aimed at the 2016 presidential election, and that the campaign “demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”<sup>8</sup>

***“This is a straightforward, bipartisan proposal to help keep secret, foreign money from influencing our elections,” said Peters. “Americans deserve a more transparent electoral process and a government that is accountable to them and them alone.”***

Rep. Scott Peters (D-CA)<sup>9</sup>

## A Pragmatic Solution: The EPIC Act

Even though it is unlawful for foreign money to be used to influence American elections, there are no effective mechanisms to protect against foreign contributions flowing through 501(c) organizations into campaign coffers.

The Election Protection & Integrity Certification Act (H.R. 2852), introduced by Reps. Derek Kilmer (D-WA), Walter Jones (R-NC) and Scott Peters (D-CA), is designed to provide these new mechanisms to ensure that politically active nonprofit organizations comply with the existing ban on foreign money in American elections.<sup>10</sup>

### The EPIC Act seeks to:

- ▶ **Increase Transparency and Compliance:** The bill seeks to give law enforcement officials another tool to combat illegal foreign spending and give the public assurances that politically active nonprofits are obeying the law. It calls for an additional check box to be included on Section 506 of IRS Form 990, the annual tax return for 501(c) groups, making these organizations attest under penalty of perjury that no foreign donations were used for election activities.
- ▶ **Strengthen FEC disclosure:** Politically active nonprofit groups would be required to declare on FEC forms under penalty of perjury that no foreign money was used to make independent expenditures or electioneering communications.
- ▶ **Commission a GAO Study on Corporate Campaign Activities:** The bill would direct the Government Accountability Office (GAO) to conduct a study on corporate campaign spending to assess whether foreign funds are making their way into election activities — and advise Congress and the public about what additional steps may be needed.

<sup>1</sup> Foreign Agents Registration Act, <https://fara.gov/>

<sup>2</sup> Kilmer.house.gov, <http://bit.ly/2r6JO6l>

<sup>3</sup> Senate Governmental Affairs Committee, <http://bit.ly/2tgz9q5>

<sup>4</sup> The Post and Courier, <http://bit.ly/2tgkpHs>

<sup>5</sup> Foreign Policy, <http://atfp.co/2tS6hSF>

<sup>6</sup> The San Diego Tribune, <http://bit.ly/2udYVix>

<sup>7</sup> C-SPAN, <http://cs.pn/2tluzY5>

<sup>8</sup> Intelligence Community Assessment, <http://bit.ly/2iRbS9b>

<sup>9</sup> Kilmer.house.gov, <http://bit.ly/2r6JO6l>

<sup>10</sup> Congress.gov, <http://bit.ly/2tS8oWE>