

# “FOREIGN-INFLUENCED CORPORATION” LEGISLATION: AN AMBUSH ON NONPROFIT ADVOCACY AND PRIVACY

*Alex Baiocco, Director of Government Affairs*

Federal law broadly prohibits foreign nationals from making contributions and expenditures in connection with any election, and many states have similar laws.<sup>1</sup> Yet there has been a noticeable uptick in efforts over the past decade by both Democrats and Republicans to ban contributions and expenditures from so-called “foreign-influenced corporations” or “foreign-influenced business entities.” Despite their names, these schemes have little to do with preventing already illegal foreign influence in elections. Instead, their primary and overwhelming intent and effect is to prevent groups of Americans from exercising core First Amendment rights.

Typically, such legislation defines a “foreign-influenced corporation” (FIC) or “foreign-influenced business entity” (FIBE) as any company with as little as 1% of its equity owned by a foreign investor or 5% owned, in aggregate, by multiple foreign investors. Many thoroughly American businesses meet these sweeping conditions in today’s global market. Under such laws, American companies would be prohibited from participating, directly or indirectly, in a wide range of public communications about government and public policy. In addition to obvious chilling impacts on corporate speakers, nonprofits that receive corporate donations and trade associations that collect membership dues from corporations would face significant threats to speech and privacy rights under these proposals. Policymakers and nonprofits should be aware of these effects when FIC/FIBE proposals are considered.

## 5 KEY CONSEQUENCES OF “FOREIGN-INFLUENCED CORPORATION” LEGISLATION

**Threatens Associational Privacy for American Nonprofits and Citizens.** To enforce the ban on political activity by “foreign-influenced corporations,” prototypical legislation generally requires corporations making contributions or expenditures to certify, under penalty of perjury, that they do not meet the FIC definition at the time of the contribution or expenditure. Many bills also require any entities, including nonprofit advocacy organizations, engaging in regulated communications to collect and retain such certifications from corporate donors and members. Depending on how this mandate is enforced, it may function as a disclosure requirement applied exclusively to nonprofits’ corporate supporters and members. Many officials charged with enforcing the law will likely deem it necessary to collect the certifications submitted to nonprofits by their corporate donors. Furthermore, an agency or official could decide that enforcing the law’s bans on contributions and expenditures by FICs requires inspecting the donor list of every nonprofit engaging in regulated activity. Even without an explicit nonprofit donor reporting requirement, this outcome is not far-fetched. Enforcement agencies often have broad leeway to craft rules necessary to enforce such laws, and agencies from the IRS to state attorneys general have historically demanded donor disclosure in the absence of a statutory requirement.

**Prohibits Nonprofit Advocacy.** While some bills, usually via amendment, have included provisions exempting nonprofits and protecting their First Amendment rights, most FIC/FIBE legislation would ban a wide range of nonprofit community outreach. This may occur as a consequence of accepting donations or membership dues from so-called “foreign-influenced corporations” or simply as a result of being unable to verify that donors are not FICs. Moreover, the ban on nonprofit speech is triggered in many proposals whether or not the corporate supporter earmarked their donation for the purpose of funding regulated communications. As issue speech often responds to specific legislative or government action within critical timeframes, it may be impossible in many circumstances for nonprofits to collect the required certifications from their supporters in time to make the desired communications, effectively halting nonprofit advocacy.

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<sup>1</sup> At the federal level, *see, e.g.*, 52 U.S.C. § 30121 (prohibiting contributions and donations by foreign nationals) and 22 U.S.C. § 611 (associated definitions). In the states, *see* “Laws governing foreign spending in ballot measure campaigns,” Ballotpedia. Available at: [https://ballotpedia.org/Laws\\_governing\\_foreign\\_spending\\_in\\_ballot\\_measure\\_campaigns](https://ballotpedia.org/Laws_governing_foreign_spending_in_ballot_measure_campaigns) (Feb. 2026).

**Discourages Nonprofit Civic Engagement.** As with any restriction on political speech, these bills will depress civic engagement – even from nonprofits theoretically capable of evading the ban on “foreign-influenced” speech. The downstream impacts and multi-layered disincentives are difficult to predict, but the burdens and uncertainties of compliance will have a certain and immediate chilling effect. Even without these bans, which are backed by serious penalties, issue advocacy and campaign finance regulations are notoriously difficult to navigate with any confidence. Often, groups have no way of knowing whether a particular activity is permissible until enforcement action has already occurred or advisory opinions are issued. Activities banned under “foreign-influenced corporation” laws – typically “contributions” and “expenditures” but often “donations,” “electioneering communications,” and any action deemed to “support or oppose” a ballot measure – are often vaguely defined, and whether a particular communication meets the statutory or regulatory definition often depends on inconsistent interpretations. Inevitably, many groups will decline to speak up to avoid making burdensome requests of their supporters, and corporate donors or members may discourage the organization from engaging in activity that would trigger certification requirements.

**Harms Fundraising and Association.** If joining a trade association limits who may invest in a company, businesses will be far less likely to join membership organizations that advocate on matters of concern to a business and its employees. If nonprofits’ engagement options are limited by accepting corporate donations, groups will be less likely to accept funds that otherwise would enhance their ability to pursue their missions. The end result is a less robust civil society wherein stakeholders and policy experts are sidelined due to a shortsighted political interest in curbing unwanted voices. The American system of government relies on citizens’ ability and willingness to form associations and voice opinions on government action. FIC bills are little more than poorly disguised attempts to make organizing and speaking out more difficult, if not illegal, for particular groups of Americans.

**Wastes Taxpayer Dollars Litigating an Unconstitutional Policy.** Two states – **Maine** and **Minnesota** – have enacted FIC/FIBE laws since 2023, the former via ballot initiative and the latter via legislation. These bans were successfully challenged on First Amendment grounds by impacted businesses and trade associations.<sup>2</sup> The plot to mask an unconstitutional ban on corporate speech by Americans as a constitutional ban on foreign contributions and expenditures has its origins in efforts to bypass U.S. Supreme Court precedent upholding the First Amendment rights of businesses, nonprofits, and unions. Lawmakers contemplating such schemes should expect to waste state funds on expensive litigation when silenced residents inevitably defend their rights in court.

## CONCLUSION

“Foreign-influenced corporation” schemes silence local businesses and nonprofits, erode Americans’ freedom of association, and fail to hinder illegal political activity by foreign nationals. Legislators should consider the detrimental impact on civil society and privacy rights inherent in these proposals before backing punitive legislation that will ultimately be deemed unconstitutional.

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1025 Thomas Jefferson Street NW, Suite 400 West • Washington, D.C. 20007

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<sup>2</sup> See Emma Davis, “First Circuit rules Maine ban on foreign government election spending likely unconstitutional,” *Maine Morning Star*. Available at: <https://mainemorningstar.com/2025/07/14/first-circuit-rules-maine-ban-on-foreign-government-election-spending-likely-unconstitutional/> (July 14, 2025) and Briana Bierschbach, “Judge blocks Minnesota campaign law to limit donations from corporations with foreign ownership,” *The Minnesota Star Tribune*. Available at: <https://www.startribune.com/federal-judge-blocks-minnesota-law-to-limit-donations-from-foreign-corporations/601218850> (Feb. 7, 2025).