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THE GET FOREIGN MONEY OUT OF CALIFORNIA ELECTIONS ACT FACT SHEET

Federal law and judicial decisions interpreting that law continue to make clear that foreign money is not permitted in U.S. elections either “directly or indirectly” contributed.

This bill would prevent U.S. based corporations with appreciable levels of foreign ownership from spending money from their corporate treasuries to influence California elections if the corporation meets one of the following criteria:

- 1) a single foreign shareholder owns or controls 1 percent or more of the corporation’s equity
- 2) Multiple foreign shareholders own or control—in the aggregate—5 percent or more of the corporation’s equity.

(Corporate governance experts and regulators agree that the thresholds stipulated in this bill capture the level of ownership necessary to influence corporate decisions. Former chairman of the U.S. House Committee on Financial Services, Rep. Jeb Hensarling (R-TX) stated, and the Business Roundtable and the SEC concur, that 1 percent is a threshold at which a single shareholder can influence corporate decisions.)

In his State of the Union address just days after the Citizens United vs FEC ruling, then President Obama warned that the decision had opened the door to foreign money in US elections. Justice Samuel Alito, seated in the front row, breaking protocol, shook his head mouthing “[N]ot true.”

But it was true. Foreign investors are increasing their ownership shares of US corporations. In 1982 only 5% of shares in US corporations were owned by foreign investors. By 2015 the number was 20% and by 2019 the total number of shares held by foreign investors in US corporations was a staggering 40%.

The United States' largest corporations are spending hundreds of millions of dollars directly from their corporate treasuries to influence elections and much of that money is "indirectly" contributed by foreign investors.

Foreign interests can easily diverge from U.S. interests, for example, in the areas of tax, trade, investment, and labor law. Corporate directors and managers view themselves as accountable to their shareholders, including foreign shareholders. As the former CEO of U.S.-based Exxon Mobil Corp, Lee Raymond, starkly stated, "I'm not a U.S. company and I don't make decisions based on what's good for the U.S."

The proposed foreign ownership thresholds (1% individual or 5% aggregate) would prevent foreign-influenced U.S. corporations from spending money to shape the outcomes of elections or ballot measures. Of 111 corporations studied among the S&P 500 stock index, 74 percent exceeded the 1 percent threshold for a single foreign owner and 98 percent exceeded the 5 percent aggregate foreign ownership threshold. Among smaller publicly traded corporations, only 28 percent exceeded the 5 percent aggregate foreign ownership threshold.

In his 2010 Citizens United vs FEC opinion, former Justice Anthony M. Kennedy, writing for the 5-4 majority, justified allowing US corporations to spend unlimited amounts from their corporate treasuries in US elections by repeatedly asserting that these corporations were "associations of citizens." For certain US corporations that is simply "not true."

This bill will close the foreign money loophole Citizens United created, perhaps inadvertently, which has allowed foreign money to flow "indirectly" through US corporations into US elections in violation of US election code.