

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0318.01 Bob Lackner x4350

SENATE BILL 21-177

SENATE SPONSORSHIP

Bridges,

HOUSE SPONSORSHIP

Woodrow,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON FOREIGN-INFLUENCED MONEY IN**
102 **POLITICAL CAMPAIGNS IN THE STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a foreign-influenced corporation from making an electioneering communication or a regular biennial school electioneering communication.

The bill also expands the group of persons and entities currently prohibited from expending money on an independent expenditure in connection with an election in the state to include a foreign-influenced

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

corporation. An independent expenditure committee is prohibited from knowingly accepting a donation from any foreign-influenced corporation.

The bill prohibits an independent expenditure committee from knowingly accepting a contribution, donation, or transfer from a covered organization if all or part of the contribution, donation, or transfer includes money received by the independent expenditure committee from a foreign-influenced corporation.

The bill prohibits any person from using funds from a foreign-influenced corporation to make either an electioneering communication or a regular biennial school electioneering communication.

A for-profit corporation that is authorized to make a contribution or donation is required to affirm in writing under penalty of perjury that it is not a foreign-influenced corporation before it makes any permissible contributions or donations. The bill prohibits any person from accepting a permissible contribution or donation from a nonprofit corporation unless the written affirmation is provided before the contribution or donation is received by the recipient. The recipient of the contribution or donation is required to retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution or donation is received. An affirmation statement is not required if the for-profit corporation has previously provided a statement to the recipient in the 3-month period prior to the date on which it makes the permissible contribution or donation.

The bill defines the terms "foreign-influenced corporation", "foreign owner", and "widely held diversified fund".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Preventing Foreign Influence Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 hereby finds, determines, and declares that:

6 (a) Colorado has a voting system that is considered by many
7 across the nation to be the gold standard of state election systems. While
8 Colorado welcomes immigrants, visitors, and investors from across the
9 world, its elections should be decided by Colorado residents and not by
10 foreign-influenced corporations.

1 (b) The United States government has concluded that the 2016
2 general election was subject to extensive foreign involvement as detailed
3 in a January 2017 report prepared by the director of national intelligence
4 entitled "Assessing Russian Activities and Intentions in Recent U.S.
5 Elections".

6 (c) Congress has recognized the need to protect United States
7 elections, including local elections, from foreign influence through the
8 ban in federal election law on contributions and expenditures by foreign
9 nationals, which was upheld by the supreme court in *Bluman v. Federal*
10 *Election Commission*, 565 U.S. 1104 (2012).

11 (d) Political spending by foreign-influenced corporations may
12 weaken, interfere with, or disrupt Colorado's system of democratic
13 self-government and the faith that the electorate has in its elections and
14 its elected officials.

15 (e) To protect the integrity of Colorado's self-government, it is
16 necessary to prevent foreign-influenced corporations from influencing
17 Colorado elections by requiring for-profit corporations to certify that they
18 are not a foreign-influenced corporation before making permissible
19 contributions or donations and to prevent any independent expenditure
20 committees from knowingly accepting donations from foreign-influenced
21 corporations.

22 **SECTION 3.** In Colorado Revised Statutes, 1-45-103, **add** (10.7)
23 and (10.9) as follows:

24 **1-45-103. Definitions - repeal.** As used in this article 45, unless
25 the context otherwise requires:

26 (10.7) (a) "FOREIGN-INFLUENCED CORPORATION" MEANS A
27 CORPORATION:

1 (I) IN WHICH A SINGLE FOREIGN OWNER HOLDS, OWNS, CONTROLS,
2 OR OTHERWISE HAS DIRECT OR INDIRECT BENEFICIAL OWNERSHIP OF FIVE
3 PERCENT OR MORE OF THE TOTAL EQUITY, OUTSTANDING VOTING SHARES,
4 MEMBERSHIP UNITS, OR OTHER APPLICABLE OWNERSHIP INTERESTS OF THE
5 CORPORATION;

6 (II) IN WHICH TWO OR MORE FOREIGN OWNERS, IN AGGREGATE,
7 OWN, CONTROL, OR OTHERWISE HAVE DIRECT OR INDIRECT BENEFICIAL
8 OWNERSHIP OF TWENTY PERCENT OR MORE OF THE TOTAL EQUITY,
9 OUTSTANDING VOTING SHARES, MEMBERSHIP UNITS, OR OTHER
10 APPLICABLE OWNERSHIP INTERESTS OF THE CORPORATION; OR

11 (III) IN WHICH A SINGLE FOREIGN GOVERNMENT, INCLUDING A
12 CENTRALLY OWNED FOREIGN BANK AND FOREIGN SOVEREIGN WEALTH
13 FUND OWNS, CONTROLS, OR OTHERWISE HAS DIRECT OR INDIRECT
14 BENEFICIAL OWNERSHIP OF ONE PERCENT OR MORE OF THE TOTAL EQUITY,
15 OUTSTANDING VOTING SHARES, MEMBERSHIP UNITS, OR OTHER
16 APPLICABLE OWNERSHIP INTERESTS OF THE CORPORATION.

17 (b) FOR PURPOSES OF THIS SUBSECTION (10.7),
18 "FOREIGN-INFLUENCED CORPORATION" SHALL NOT APPLY TO A NONPROFIT
19 CORPORATION.

20 (10.9) (a) "FOREIGN OWNER" MEANS A PERSON OR ENTITY THAT:

21 (I) HOLDS, OWNS, CONTROLS, OR OTHERWISE HAS DIRECT OR
22 INDIRECT BENEFICIAL OWNERSHIP OF EQUITY, OUTSTANDING VOTING
23 SHARES, MEMBERSHIP UNITS, OR OTHER APPLICABLE OWNERSHIP
24 INTERESTS OF THE CORPORATION; AND

25 (II) IS A GOVERNMENT OF A FOREIGN COUNTRY; A POLITICAL
26 PARTY BASED IN A FOREIGN COUNTRY; A PARTNERSHIP, ASSOCIATION,
27 CORPORATION, ORGANIZATION, OR OTHER COMBINATION OF PERSONS

1 ORGANIZED UNDER THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF
2 BUSINESS IN A FOREIGN COUNTRY; OR IS A NATURAL PERSON WHO IS NOT
3 A CITIZEN OF THE UNITED STATES.

4 (b) (I) "FOREIGN OWNER" DOES NOT INCLUDE A PERSON OR ENTITY
5 WHOSE OWNERSHIP OR EQUITY INTEREST IN ANY OTHER ORGANIZATION OR
6 ENTITY IS MAINTAINED THROUGH A WIDELY HELD DIVERSIFIED FUND
7 BASED IN THE UNITED STATES.

8 (II) FOR PURPOSES OF SUBSECTION (10.9)(b)(I) OF THIS SECTION,
9 "WIDELY HELD DIVERSIFIED FUND" MEANS A POOLED INVESTMENT SUCH
10 AS A MUTUAL FUND, COMMON TRUST FUND OF A FINANCIAL INSTITUTION,
11 OR A LIMITED PARTNERSHIP IN WHICH THE POOLED INVESTMENT:

12 (A) HAS MORE THAN ONE HUNDRED PARTICIPANTS;

13 (B) HOLDS MORE THAN FIFTY-FIVE PERCENT OF THE VALUE OF ITS
14 INVESTMENT PORTFOLIO IN THE SECURITIES OF ANY ISSUER OTHER THAN
15 THE UNITED STATES GOVERNMENT;

16 (C) HOLDS NO MORE THAN TWENTY PERCENT OF THE VALUE OF ITS
17 PORTFOLIO IN ANY PARTICULAR ECONOMIC OR GEOGRAPHIC SECTOR; AND

18 (D) IS INDEPENDENTLY MANAGED SO THAT NO INVESTOR IN THE
19 FUND, OR A MEMBER OF THE IMMEDIATE FAMILY OF ANY INVESTOR,
20 EXERCISES CONTROL OVER, OR HAS THE ABILITY TO EXERCISE CONTROL
21 OVER, THE FINANCIAL INTERESTS HELD BY THE POOLED INVESTMENT,
22 INCLUDING ANY INDIRECT CONTROL THAT THE FUND MAY HAVE OVER ANY
23 CORPORATION OR OTHER ENTITY THAT HAS ISSUED SECURITIES THAT ARE
24 PART OF THE INVESTMENT PORTFOLIO OF THE FUND.

25 **SECTION 4.** In Colorado Revised Statutes, 1-45-103.7, **amend**
26 (5.5) as follows:

27 **1-45-103.7. Contribution limits - county offices - treatment of**

1 **independent expenditure committees - contributions from limited**
2 **liability companies - voter instructions on spending limits -**
3 **definitions.** (5.5) (a) A natural person who is not a citizen of the United
4 States, a foreign government, or a foreign corporation shall not establish,
5 register, or maintain a political committee, small donor committee,
6 political party, issue committee, or small-scale issue committee, or make
7 an electioneering communication or regular biennial school
8 electioneering communication.

9 (b) A FOREIGN-INFLUENCED CORPORATION SHALL NOT MAKE AN
10 ELECTIONEERING COMMUNICATION OR A REGULAR BIENNIAL SCHOOL
11 ELECTIONEERING COMMUNICATION.

12 **SECTION 5.** In Colorado Revised Statutes, 1-45-107.5, **amend**
13 (1); and **add** (15), (16), and (17) as follows:

14 **1-45-107.5. Independent expenditures - restrictions on foreign**
15 **corporations - registration - disclosure - disclaimer requirements -**
16 **definitions.** (1) Notwithstanding any other provision of law, ~~no~~ NEITHER
17 ANY natural person who is not a citizen of the United States NOR ANY
18 foreign government, ~~or~~ foreign corporation, OR FOREIGN-INFLUENCED
19 CORPORATION may expend ~~moneys~~ MONEY on an independent
20 expenditure in connection with an election in the state, and no
21 independent expenditure committee may knowingly accept a donation
22 from any natural person who is not a citizen of the United States OR any
23 foreign government, ~~or any~~ foreign corporation, OR FOREIGN-INFLUENCED
24 CORPORATION.

25 (15) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS
26 AFFECTING COVERED ORGANIZATIONS UNDER THIS SECTION, NO
27 INDEPENDENT EXPENDITURE COMMITTEE MAY KNOWINGLY ACCEPT A

1 CONTRIBUTION, DONATION, OR TRANSFER FROM A COVERED
2 ORGANIZATION IF ALL OR PART OF THE CONTRIBUTION, DONATION, OR
3 TRANSFER INCLUDES MONEY RECEIVED BY THE INDEPENDENT
4 EXPENDITURE COMMITTEE FROM A FOREIGN-INFLUENCED CORPORATION.

5 (16) NO PERSON SHALL USE FUNDS FROM A FOREIGN-INFLUENCED
6 CORPORATION TO MAKE EITHER AN ELECTIONEERING COMMUNICATION OR
7 A REGULAR BIENNIAL SCHOOL ELECTIONEERING COMMUNICATION.

8 (17) A FOR-PROFIT CORPORATION THAT IS AUTHORIZED TO MAKE
9 A CONTRIBUTION OR DONATION SHALL AFFIRM IN WRITING UNDER
10 PENALTY OF PERJURY THAT IT IS NOT A FOREIGN-INFLUENCED
11 CORPORATION BEFORE IT MAKES ANY PERMISSIBLE CONTRIBUTIONS OR
12 DONATIONS. NO PERSON SHALL ACCEPT A PERMISSIBLE CONTRIBUTION OR
13 DONATION FROM A FOR-PROFIT CORPORATION UNLESS THE WRITTEN
14 AFFIRMATION SATISFYING THE REQUIREMENTS OF THIS SUBSECTION (17)
15 IS PROVIDED BEFORE THE CONTRIBUTION OR DONATION IS RECEIVED BY
16 THE RECIPIENT. THE RECIPIENT OF THE CONTRIBUTION OR DONATION
17 SHALL RETAIN THE WRITTEN AFFIRMATION FOR NOT LESS THAN ONE YEAR
18 FOLLOWING THE DATE OF THE END OF THE ELECTION CYCLE DURING WHICH
19 THE CONTRIBUTION OR DONATION IS RECEIVED. AN AFFIRMATION
20 STATEMENT IS NOT REQUIRED IF THE FOR-PROFIT CORPORATION HAS
21 PREVIOUSLY PROVIDED A STATEMENT TO THE RECIPIENT IN THE
22 THREE-MONTH PERIOD PRIOR TO THE DATE ON WHICH IT MAKES THE
23 PERMISSIBLE CONTRIBUTION OR DONATION.

24 **SECTION 6. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant

1 to section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2022 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.

7 (2) This act applies to the portion of any election cycle or to the
8 portion of the calendar year remaining after the effective date of this act
9 and for any election cycle or calendar year commencing after such
10 effective date, whichever is applicable.