



June 6, 2024

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington D.C. 20515

RE: H.R. 8314 – No Foreign Election Interference Act

Dear Speaker Johnson and Leader Jeffries:

On behalf of the Institute for Free Speech,¹ I am writing to express our deep concerns about H.R. 8314 (the “No Foreign Election Interference Act”), which seriously threatens the First Amendment rights of American citizens and nonprofit organizations.

The bill proposes to prohibit any 501(c) nonprofit organization from contributing to any political committee (PAC) if it has received a donation of any amount from a foreign national within the past eight years. It also imposes harsh penalties for violations, including a penalty of twice the amount of a PAC contribution and a revocation of an organization’s tax-exempt status upon a third “disqualified” contribution.

This bill effectively seeks to reverse the Supreme Court’s landmark *Citizens United* decision since it would make it nearly impossible for most 501(c) nonprofit corporations to make political contributions to support independent expenditures. This is because 501(c) organizations would have no way to ensure compliance with this proposed bill.

On its face, this bill appears to set a strict liability standard for verifying the citizenship of 501(c) donors. As of today, 501(c) organizations are not required to know the citizenship of their donors. Thus, they would need to develop citizenship verification procedures to accept contributions. This is likely impractical at best and most likely impossible. Foreign nationals may have U.S. bank accounts or addresses, meaning that a foreign national donation may appear permissible on its face.

To make matters worse, unlike Federal Election Commission regulations, the bill does not include a “knowing” requirement, nor does it provide a safe harbor for organizations that take specific steps to attempt to verify the citizenship of their donors.

¹ The Institute for Free Speech is a nonpartisan, nonprofit 501(c)(3) organization that promotes and defends the First Amendment rights to freely speak, assemble, publish, and petition the government.

Finally, this bill does not even include a *de minimis* exception for foreign donations. The upshot is that even a single \$1 donation from a foreign national imposes an eight-year prohibition on core First Amendment activity, even if the 501(c) organization raises millions of dollars from U.S. citizens and spends a small fraction of those American contributions for independent expenditures. This is both illogical and unconstitutional.

It is nearly impossible for organizations to ensure they have received *no* foreign donations. Thus, as a practical matter, the result of this bill will be to effectively prohibit nearly all 501(c) organizations from supporting independent expenditures.

The bill would severely harm the ability of American citizens to join organizations and freely speak about election campaigns. It is a poorly tailored muzzle on election campaign speech by Americans and is highly likely to fail constitutional scrutiny should it become law.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Keating', is positioned above the printed name and title.

David Keating
President