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Democrats prepare legislation to counter ruling on campaign spending

By Dan Eggen
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Sensing a clear political opportunity, congressional Democrats are rushing to craft legislation to counter a Supreme Court ruling that they fear could lead to a flood of foreign spending on U.S. political campaigns.

The same issue fueled a heated political flap Thursday over [President Obama](#)'s unusual condemnation of the decision during his State of the Union address and the response from Justice Samuel A. Alito Jr., who was in the audience. "Not true, not true," Alito appeared to say as he shook his head during the remarks.

Lost in the heat of the debate is that hundreds of foreign corporations are already heavily involved in U.S. elections.

U.S.-based subsidiaries of overseas firms have contributed more than \$20 million to federal campaigns since 2007 and have spent millions more lobbying Congress on issues such as energy and free trade, according to federal disclosure reports. Donations linked to foreign firms have increased from \$7.7 million in 2000 to nearly \$17 million in 2008, according to the Center for Responsive Politics.

Some of the biggest players in the current health-care reform debate, for example, include British drugmakers AstraZeneca and GlaxoSmithKline, Swiss firms Novartis and Roche, and Germany's Bayer Corp. and Siemens AG. All have U.S. subsidiaries that employ Washington [lobbyists](#) and run [political action committees](#), which in turn funnel thousands of dollars in campaign contributions to lawmakers in both parties.

Such activity is legal because the firms are incorporated in the United States and can take part in federal and state politics, like any wholly domestic company. The only caveat is that foreign personnel and money cannot be used in the efforts.

"I think a lot of people don't know that these companies have long been involved in state and local and federal elections," said Trevor Potter, a former [Federal Election Commission](#) member who served as an adviser to [Sen. John McCain](#) (R-Ariz.). "It also makes a great political issue."

Democrats and campaign-finance reform activists argue that the Supreme Court dramatically expanded the potential for abuse with its Jan. 20 ruling, which would allow the domestic arm of a foreign company to fund direct attacks on political candidates from its U.S. bank accounts. In addition, these critics argue, the beleaguered FEC is hardly in a position to police the flow of money between such firms and their foreign parents.

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Critics also fear that the ruling paves the way for court decisions that allow greater foreign involvement, including direct contributions to U.S. candidates. Supreme Court Justice John Paul Stevens made similar arguments in his lengthy dissent to the 5 to 4 ruling.

During Wednesday's speech, Obama said: "Last week, the Supreme Court reversed a century of law to open the floodgates for special interests, including foreign corporations, to spend without limit in our elections." He added: "I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities."

But many Republicans and conservative campaign finance experts accuse Obama and other Democrats of mischaracterizing the majority's opinion, which explicitly declined to address whether "foreign individuals or associations" were affected.

Critics also attacked the president's assertion that the Supreme Court "reversed a century of law." That refers to a law banning companies of any kind from making direct contributions to candidates, which is undisturbed by the decision. But that law does show that Congress began treating the corporate role in elections differently than an individual's in 1907.

Foreign nationals remain barred from donating to political candidates or paying for campaign ads through a century-old series of [statutes](#) and through FEC regulations. Foreign-connected PACs must be run by U.S. citizens without input from the overseas parent company, except when it comes to setting overall budgets for political spending, according to FEC advisories.

Roger Pilon, director of the Cato Institute's Center for Constitutional Studies, said that "the decision did nothing to upset law that prohibits foreigners, including foreign corporations, from contributing anything of value to an American election."

Some legal experts said both sides have a point. "The statement that foreign corporations will be able to spend is probably overbroad," said Tara Malloy, associate counsel at the Campaign Legal Center. "But it does create a loophole that could allow foreign money to come into U.S. elections."

The ruling has set off a stampede among Democrats to close such loopholes.

[Rep. John Hall](#) (N.Y.) introduced legislation this week that would ban political advertising by any corporation if foreign nationals make up more than 5 percent of its shareholders.

[Sen. Charles E. Schumer](#) (N.Y.) and [Rep. Chris Van Hollen](#) (Md.) are leading an effort to write broader legislation aimed at curbing the political activities of corporations, including limits aimed at firms with overseas connections.

The push has angered many business leaders. They say it is futile to single out companies with overseas connections in a global economy in which U.S. automakers assemble cars in Mexico and Japanese firms build them in the United States.

"Bashing foreign companies may seem like a good idea in terms of populist message, but it's not good policy in today's economy," said Nancy McLernon, president of the Organization for International Investment, a trade group representing major foreign-based multinationals.

Staff writer Robert Barnes contributed to this report.

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