

SUMMARY OF *CITIZENS UNITED* LEGISLATION

Introduced by U.S. Senator Charles E. Schumer & U.S. Rep. Chris Van Hollen

1. PREVENT FOREIGN INFLUENCE IN U.S. ELECTIONS

The legislation prevents foreign governments, foreign companies and foreign nationals from influencing U.S. elections by banning corporations from spending money on U.S. elections if:

- They have a foreign ownership of 20% or more;
- A majority of their board of directors is foreign principals; or
- Their U.S. operations, or their decision-making with respect to political activities, falls under the direction or control of a foreign entity, including a foreign government.

2. BAN PAY-TO-PLAY

● **Prevent Government Contractors from Spending Money on Elections.** Government contractors would be barred from making political expenditures.

● **Prevent Corporate Beneficiaries of TARP from Spending Money on Elections.** Corporations that received bailout funding from the federal government should not be permitted to use taxpayer money for political expenditures.

3. ENHANCE DISCLAIMERS TO IDENTIFY SPONSORS OF ADS

● **Require Corporate CEO's To Identify that they are Behind Political Ads.** If a corporation spends on a political ad, the CEO will be required to appear on camera to say that he or she "approves this message," just like candidates have to do now.

● **For Shadow Groups, Require Top Corporate Donors To Appear in Political Ads They Funded.** In order to prevent individuals and corporations from funneling money through shell groups in order to mask their activities, the legislation will include the following requirements:

- The top funder of the advertisement must also record a stand-by-your-ad disclaimer.
- The top five contributors to an organization for political purposes that purchases advertising will be listed on the screen at the end of advertisement.

4. ENHANCE REQUIREMENTS FOR DISCLOSURE OF POLITICAL EXPENDITURES

The legislation ensures that the public will have full and timely disclosure of campaign-related expenditures made by corporations and labor organizations. The legislation imposes disclosure requirements that will mitigate the ability of corporate spenders to mask their electioneering activities through use of intermediaries.

4(i) SET UP 'PAPER TRAILS' WITH THE FEC

● The legislation would require corporations, labor unions, and organizations organized under 501(c) 4, 5, or 6 laws – as well as 527 organizations – to establish separate "political broadcast spending" accounts to receive and disperse political expenditures.

● All funds received into these "political activities" accounts must be publicly reported to the FEC. The following information must also be disclosed:

- Name of the individual who controls the account
- Name of donors and transferors
- Date of each donation and transfer in excess of \$10,000,
- Election or name of the candidate if the donation or transfer was so designated.

● All funds disbursed from the "political activities" accounts must be publicly reported to the FEC with the following information:

- Name of the person making the disbursement
- Amount of each disbursement of more than \$ 200 during the required period, the election to which the disbursement is made
- Independent Expenditure-related candidate and whether the expenditure is directed in support of or opposition to the candidate
- Electioneering Communication-related candidate who is the subject of the communication and whether the candidate is being supported or opposed through the expenditure.
- Certification by the CEO or the head of the entity responsible, that the independent expenditure or electioneering communication is not made in coordination with a candidate, candidate committee or party committee.

- All funds transferred from the “political activities” account for the purpose of a political expenditure, or that is not restricted for use for a political expenditure, must be publicly reported to the FEC with:

- Name of the transferor
- Name of the recipient
- Date and amount of the funds transferred
- Whether the transferred funds are intended for use in a particular election or directed to a candidate and, if so, disclose the election and/or candidate.

4(ii) PROVIDING NOTICE TO SHAREHOLDERS DIRECTLY AND THROUGH SEC FILINGS

- All political expenditures made by a corporation should be disclosed within 24 hours on the corporation’s website with a clear link on the homepage; disclosed to shareholders directly on a quarterly basis; and comprehensively disclosed within the corporation’s annual report.

4(iii) REQUIRING LOBBYISTS TO DISCLOSE THEIR ACTIVITIES

- All registrants under the Lobbying Disclosure Act must disclose the following information:
 - Every campaign expenditure in excess of \$1000
 - Date it was received
 - Recipient
 - Name of each “covered candidate” or political party expressly identified in any electioneering communication
 - Running total of the political expenditures.

5. PROVIDE LOWEST UNIT RATE FOR CANDIDATES AND PARTIES

- If a corporation buys airtime to run ads on broadcast, cable, or satellite television that support or oppose a candidate, then that candidate and political party or political party committee is allowed to receive the lowest unit rate for that media market.
- The broadcaster must also ensure that the candidate or political entity has reasonable access to airtime. This ensures that candidates and parties are not forced to run their advertisements at, say, 2:00 am when no one is watching, or be blocked from purchasing any advertising time at all.

6. PREVENT CORPORATIONS FROM COORDINATING THEIR ACTIVITIES WITH CANDIDATES AND PARTIES

- The legislation ensures that corporations and others are not allowed to coordinate campaign-related expenditures with candidates and parties in violation of rules that require these expenditures to be independent.
 - Current FEC rules bar corporations and unions from coordinating with candidates and parties about most ads distributed within 90 days of a House or Senate primary election or within 90 days of the general election. For Presidential contests, FEC rules bar coordination on ads referencing a presidential candidate 120 days before a state's Presidential primary election and continuing in that state through the general election.
 - This legislation would do the following:
 - For House and Senate races, the legislation would ban coordination between a corporation or union and the candidate on ads referencing a Congressional candidate within 90 days of the *primary* through the *general* election.
 - For all federal elections, at any time before the 90- or 120-day window opens, it would ban coordination of ads between a corporation or union and the candidate when they promote, support, attack or oppose a candidate.

Other Approaches to “Fix” *Citizens United*

- Focus less on regulating “bad” money in politics (especially because the U.S. Supreme Court is so hostile to this approach) and focus more on creating a new stream of “clean” money – i.e., expand public campaign financing.
- Promote a Constitutional amendment that says a corporation is not a “person” and shall not receive the protections of the First Amendment.
- Promote a Constitutional amendment that establishes the right to vote and the right to a fair election that is free from influences that corrupt the election process (not just the candidates).
- Promote a Constitutional convention in which a variety of amendments may be considered. This approach assumes Congress won’t vote to put any far-reaching amendment before the states for ratification, so a convention is necessary.

SUMMARY OF “FAIR ELECTIONS NOW” ACT FOR CONGRESSIONAL ELECTIONS

PROBLEM:

Instead of focusing on governing, members of Congress spend too much time raising money, often from the industries they oversee and special interests with narrow agendas. Donors feel pressured to give and voters are suspicious of “pay to play” politics. The rising cost of campaigns is unsustainable. Successful candidates will have to spend more and more time focused on raising money.

SOLUTION:

The Fair Elections Now Act ends the money chase and lets our leaders do what we elected them to do – focus on our nation’s problems. Sens. Dick Durbin (D-IL) and Arlen Specter (D-PA) introduced the Act as S-752. Reps. John Larson (D-CT) and Walter Jones (R-NC) introduced it as HR-1826.

Details: The Fair Elections Now Act (FENA) gives Congressional candidates the option of receiving public funding **if** they raise a large number of donations of \$100 or less from in-state donors.

- To qualify, a House of Representatives candidate would have to collect 1,500 donations from people in their state of \$100 or less that add up to at least \$50,000.
- Since states vary widely in size, a U.S. Senate candidate would have to collect 2,000 qualifying contributions plus 500 times the number of congressional districts in the state. A Senate candidate in NC, which has 13 districts, would have to raise 8,500 qualifying contributions.
- Qualified House candidates receive \$900,000 in Fair Elections funding, split 40% for the primary and 60% for the general.
- Qualified Senate candidates receive \$1.25 million plus \$250,000 per congressional district in their state. The funding is split 40% for the primary and 60% for the general election.

Candidates can receive additional public funds if they continue to raise small donations in their state:

- Donations of \$100 or less from in-state donors would be matched on a 4 to 1 basis.
- The total amount of public funds is limited to three times the initial allocation for the primary, and again for the general.

Joint fundraising committees between candidates and parties would be prohibited. Fair Elections helps offset the cost of media:

- Participating candidates receive a 20% reduction from the lowest broadcast rates.
- Participating Senate candidates who win the primaries can receive \$100,000 in media vouchers per congressional district in their state. House candidates receive one \$100,000 media voucher.

How is this program funded? The cost of Fair Elections for Senate races would be borne by a very small fee on large government contractors and, in the House bill for House races, it would come from ten percent of revenues generated through the auction of unused broadcast spectrum.

The bill text is at FairElectionsNow.org: Click on Activist Toolkit, then Bill Summary; scroll to end.

SUMMARY OF NORTH CAROLINA LEGISLATION

1. EXPAND VOTER-OWNED, PUBLIC FINANCING TO MORE OFFICES

- **Expand Council of State Program to Additional Offices.** The 2008 Pilot for three Council of State positions saw high participation and a dramatic drop in the role of regulated interests. The program should be expanded to more COS offices, such as the Commissioner of Labor and State Treasurer which historically have depended on fundraising from industries they regulate or do business with.
- **Expand Municipal Public Financing.** Many cities (including Raleigh, Wilmington, and Greenville) have expressed interest in creating local Voter-Owned Elections programs. The state should authorize these municipalities to create local programs if citizens in these communities want them.
- **Establish a Legislative Pilot Program.** Public financing for state legislative races would empower more candidates and voters to participate in the process. It would also give candidates who uphold the public interest some ability to respond to attacks paid for by corporations and other special interest groups. The state should establish a public financing pilot program for a small number of Senate and House districts during the 2012 elections.

2. IMPROVE DISCLOSURE

- **Corporate and Union Independent Expenditure Disclosure.** Corporations and unions should be required to create separate campaign accounts and report every disbursement in a timely manner. “Stand By Your Ad” laws should be expanded to require CEOs to appear in their political advertisements (or if financed by a shadow group, the names of the largest campaign donors). Information should be reported to the State Board of Elections and disclosed on their website within one day of each disbursement.
- **Disclosure by Appointees to Boards and Commissions.** Appointees to state boards and commissions should be required to report their campaign contributions and fundraising activities done on behalf of current elected officials.

- **Gift Disclosures on Statement of Economic Interest.** Require persons filing an annual Statement of Economic Interest form to list all gifts of \$100 or more from those seeking to do business with the state; and list all gifts exceeding \$200.

3. DEFINE COORDINATION

- **North Carolina law does not define what constitutes “coordination” between independent groups and individual candidates.** Legislation should be passed that gives the State Board of Elections criteria for determining coordination.

4. PAY-TO-PLAY RESTRICTIONS

- **Ban campaign contributions from major state contractors to elected officials who approve the contract or supervise those who give approval.**
- **Ban independent expenditures from corporations who have state contracts over a certain value.** If a corporation is engaged in public business, they should not be allowed to spend money in races which could have some influence over their state contract.

5. REVOLVING DOOR LEGISLATION

- Require a six-month or longer cooling off period before top executive branch officials can be lobbyists.
- Require at least a six-month period before state employees can take a job with industries their agency regulates or has a contract with.

6. POLITICAL PARTY DONATIONS

- Prohibit political parties from making unlimited donations to legislative and statewide campaigns – or provide detailed disclosure of donors to, and expenses by, caucus committees within the political parties.
- Limit the transfer of money from one political committee to another.

**For more information, please contact
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