

## H. J. RES. 2 (116<sup>th</sup> Congress)

### Section-by-section and FAQ

**Section I. To advance democratic self-government and political equality, and to protect the integrity of government and the electoral process, Congress and the States may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections.**

**Explanation:** A bare majority of the Supreme Court has ruled that state and federal laws limiting money in politics are only legitimate in so far as they prevent quid pro quo, bribery-style corruption between candidates and donors. In 2010, the Court held in *Citizens United v. FEC* that unlimited corporate spending in elections is incapable of corrupting the democratic process. In 2014, the *McCutcheon v. FEC* ruling struck down limits on how much one person can donate in any given election cycle and asserted that donors have a right to buy unlimited influence in elections.

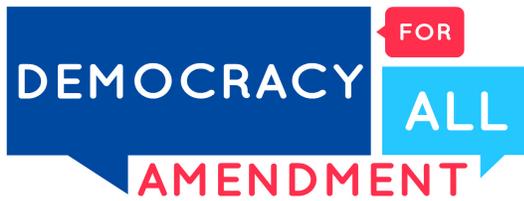
Section I restores constitutional legitimacy to campaign finance laws by giving the people a right to limit the broader corrupting influence of money in elections. It also overturns the Supreme Court's decision in *Buckley v. Valeo*, which held that spending in elections separate from candidates' campaigns is a form of speech, and establishes a clear government interest in limiting election spending by individuals and other moneyed special interests.

**Section II. Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.**

**Explanation:** This section restores authority to Congress and the states to enact campaign finance laws and adopt implementing regulations. It specifically overturns *Citizens United* by clarifying that the elected representatives of the American people for whom our democracy was founded are able to set federal and state limits on election spending by artificial entities such as for-profit corporations, unions, and other organizations different from those that apply to individuals. This section does not change the status of existing constitutional law with respect to corporations for other purposes outside of the electoral context.

**Section III. Nothing in this article shall be construed to grant Congress or the States the power to abridge the freedom of the press.**

**Explanation:** This section ensures that limits on campaign spending and contributions will not restrict legitimate press functions including reporting on elections and government, publishing opinions and editorials, or interviewing and endorsing candidates.



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#### **What is wrong with the *Citizens United* decision?**

The Supreme Court's 5-4 ruling in *Citizens United v. FEC* handed corporations and other artificial entities a First Amendment right to spend unlimited sums of money influencing our elections. The majority further held that all state and federal laws limiting money in politics were only legitimate in so far as they prevented quid pro quo, bribery-style corruption, or the appearance of such corruption, between candidates and donors. This decision thus cast aside decades of decisions that recognized the value of limiting the influence of money in politics. Before *Citizens United* corporations could only spend money in elections through political action committees (PACs) funded by their employees and disclosed to the public. Now, after *Citizens United* and subsequent applications of its holding, corporations, individuals, unions, and other entities can dump unlimited money into our elections through these newfound "Super PACs" that account for much of the explosion in outside election spending since 2010.

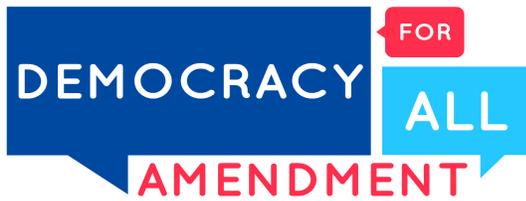
#### **What about dark money?**

Thanks to *Citizens United*, corporations are now allowed to tap into their profits to advocate for or against candidates of their choosing. Yet many corporations and their executives have taken advantage of other loopholes to hide their spending from the public. Most of these groups are classified as 501(c)4 social welfare groups and do not have to disclose their donors. As a result, special interests have set up elaborate webs of non-profit groups that can funnel millions either directly into our elections or into closely-aligned Super PACs. From 2010 to 2016, these unaccountable groups have spent over \$800 million in our elections with no way for the American people to know where it came from or who paid for the attack ads overtaking their televisions.

#### **Isn't spending money in elections a form of free speech? Why shouldn't corporations and billionaires be able to spend unlimited amounts to influence our elections?**

If rulings like *Citizens United* strengthened the First Amendment, then our government would be more and not less responsive to the American people. Instead, Congress has become less responsive to the priorities of the American people and unable to pass laws supported by the overwhelming majority of voters – from closing loopholes for companies that ship jobs overseas to raising the minimum wage.

Sensible limits on spending in our elections do not disenfranchise anyone, but elevate the First Amendment rights of everyone to be heard in our democratic process. When moneyed special interests can buy unlimited influence in our elections, the democratic principle of "one voice, one vote" is degraded. The concept of political equality – the idea in which every American is equal in their right to vote regardless of their background or wealth – has



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guided our democracy throughout history as we expanded the right to vote, banned poll taxes, outlawed direct corporate giving to candidates, and fought government corruption.

Free speech comes at too high a price when 32 mega-rich individuals can spend \$9 million each and easily outspend the \$310 million donated by millions of ordinary Americans to each of the presidential campaigns in 2012. Each of the presidential election cycles since *Citizens United* broke spending records; \$6.3 billion in 2012 and \$6.9 billion in 2016. In 2018 we saw the most expensive midterms in history coming in at \$5.2 billion, a 35 percent increase. Our Constitution created a representative democracy—members of Congress were meant to go to Washington to represent the constituents of their district or state, not those who threatened to spend money against them if they did not vote a certain way.

#### **There have been many different amendment proposals, why is this the right one?**

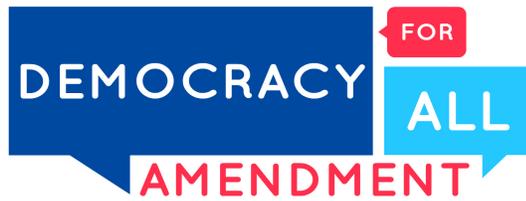
Amending the Constitution is a serious undertaking. While several amendments were introduced in Congress, the Democracy for All Amendment was crafted to achieve consensus. Top constitutional experts, members of the House and Senate, and the leaders of dozens upon dozens of public interest groups helped develop a proposal that restores legitimacy to campaign finance laws in a straightforward way. This amendment clearly conveys that Americans have a legitimate interest in passing laws that limit the influence of money in politics and protect the integrity of our democracy. It also makes clear that corporations and other artificial entities are subject to the democratically-enacted campaign finance laws of the American people.

#### **What about other corporate constitutional rights? Will unions get special treatment?**

The Democracy for All Amendment will allow state and federal lawmakers to pass laws that restrict or eliminate spending in our elections by all forms of private, artificial entities – including corporations, nonprofits, unions, and more. It would not change other Supreme Court interpretations regarding corporate rights in other areas of the law.

#### **How long will amending the Constitution take?**

Amending the Constitution is no easy feat and takes years of organizing and advocacy across the country. The Framers of the Constitution designed the amendment process to be difficult so that the people invoked it only when our democracy was truly under threat. Article V of the Constitution requires both the House of Representatives and the Senate to propose a constitutional amendment with a two-thirds vote of support. The amendment would then be referred to the states for ratification. The amendment will officially become part of the Constitution once three-fourths of the states have ratified the amendment through their legislatures or conventions. Although this is a high bar, we believe that allowing limitless spending in our elections is a serious threat to our democracy and our



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government institutions. The incredible influence of money in politics is a threat to every issue debated within Congress, and undermines the ability of the American people to communicate their priorities to their elected representatives.