



SUMMARY

“We the People Democracy Reform Act of 2017” Sponsored by Senator Udall and Representative Price

September 27, 2017

The “We the People Democracy Reform Act of 2017” – S. 1880 in the Senate and H.R. 3848 in the House of Representatives – is sponsored by Senator Tom Udall (D-NM) and Representative David Price (D-NC).

Introduced on September 27, 2017, the legislation brings together a number of democracy reform proposals into one comprehensive reform package.

The Act builds on and expands the “We the People Act” introduced in 2016 by Senator Udall and Representative Price and combines a number of democracy reform proposals in one bill that were developed by Senator Udall, Representative Price, and other Members of Congress, and also were introduced as separate bills.

The problems we face today include a destructive and corrupting campaign finance system, undemocratic partisan gerrymandering which denies millions of Americans their right to fair representation, and a seriously flawed voting system whose barriers to voting result in millions of citizens being disenfranchised.

The comprehensive package of democracy reforms provides an important roadmap for solving the fundamental problems with our political system when the opportunity arises in the future, as history tells us it surely will. The Act will also serve as a means by which to help the American people understand that our systemic democracy problems can be solved.

The Act introduced in the Senate by Senator Udall creates a small-donor, public matching funds system for presidential and Senate races. The Act introduced in the House by Representative

Price creates a similar small-donor, public matching funds system for all federal races. The Act introduced in the Senate by Senator Udall additionally requires states to allow voting by mail in federal elections.

The Act introduced by Udall and Price also closes disclosure loopholes for outside spending groups; contains new restrictions to prevent foreign involvement in our elections; requires 48-hour disclosure for large contributions to candidates and parties; provides accountability for campaign ads run by outside groups; shuts down individual-candidate Super PACs and strengthens rules prohibiting coordination between candidates and outside spenders; establishes a new campaign finance enforcement system; and closes loopholes in the lobbying disclosure law.

The Act also establishes state nonpartisan redistricting commissions to draw House congressional districts; establishes a system of automatic voter registration for citizens eligible to vote but not registered; provides for same day voter registration; requires Presidents and Vice Presidents to divest assets that create potential conflicts of interest into a blind trust; requires the President and future major party presidential nominees to disclose their income tax returns; requires disclosure of visitors to the White House and other places where the President does regular business; and strengthens Executive Branch conflict of interest and revolving door rules.

The Act is supported by Democracy 21, The Brennan Center for Justice, Common Cause, the League of Women Voters, People For the American Way, Public Citizen, Norman Eisen, chief White House ethics lawyer for Barack Obama, and Richard Painter, chief White House ethics lawyer for President George W. Bush.

Senator Udall and Representative Price are also reintroducing sections of the Act as separate bills, as they did in the last Congress.

These include the Empowering Citizens Act of 2017 to establish a system to provide public funds to match small contributions to all federal candidates who raise qualifying funds, the Empower Act of 2017 to establish a system to provide public funds to match small contributions made to presidential candidates who raise qualifying funds, and the Federal Election Administration Act of 2017 to create a new campaign finance enforcement body to replace the dysfunctional FEC.

Representative Price also is reintroducing as a separate bill the Stop Super PAC-Candidate Coordination Act of 2017, which shuts down single-candidate Super PACs and strengthens the rules prohibiting coordination between outside spending groups and candidates and parties. The companion bill in the Senate has been introduced by Senator Patrick Leahy (D-VT).

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“We the People Democracy Reform Act of 2017”

➤ Empower Small Donors

Provide for Ordinary Americans to Play Central Role in Financing Elections

The Act introduced in the Senate contains proposals introduced by Senators Udall and Richard Durbin (D-IL) to establish a system to provide public funds to match small contributions to presidential and Senate candidates who raise qualifying contributions. The Act introduced in the House contains a proposal introduced by Representative Price to establish a similar public financing matching system for all federal candidates.

In return for being able to receive public funds, a candidate has to agree to greatly reduced contribution limits. There are no overall expenditure limits for participating candidates.

The system is modeled after the successful New York City small-donor matching funds system, and provides important incentives for individuals to give and candidates to seek small donations.

The public matching funds system will provide millions of ordinary Americans with the opportunity to help counter big money in American politics by flooding campaigns with their small contributions.

➤ Disclosure Requirements

Provide for a More Transparent and Accountable Government

The Act contains a proposal introduced by Senator Sheldon Whitehouse (D-RI) that closes the disclosure loopholes that have allowed outside groups to spend hundreds of millions of dollars in secret contributions to influence federal elections.

An outside group that spends a total of \$10,000 or more on campaign-related expenditures would be required to file an FEC disclosure report within 24 hours and to file a new report each time the group spends an additional \$10,000 or more.

The outside group could use one of two approaches. The group could disclose the names and contribution amounts of donors who gave \$10,000 or more to a special account that would be used to make the only campaign-related expenditures the group could make. Or, the group could disclose the names and contribution amounts of all donors who gave more than \$10,000 to the group, which could use any of its funds to pay for campaign-related expenditures.

In order to prevent evasion, the proposal would require the disclosure of contributions made to a group that transfers funds to another group that makes campaign-related expenditures.

The Act also prohibits domestic corporations with significant foreign control, ownership, or direction from spending money in elections; allows US subsidiaries of foreign corporations to continue to have employee PACs as long as no foreign nationals have decision-making authority or control of the PAC; cracks down on shell companies which can be used to launder foreign money into elections; and directs the FEC and the Financial Crimes Enforcement Network of the Department of the Treasury to share information to identify and prevent foreign election spending.

Accountability for Campaign Ads

The Act contains a proposal introduced by Senator Udall that requires candidates and outside groups running campaign ads to take responsibility in the ads for financing the ads. It also expands this requirement to include paid Internet and email communications, and robocalls. Corporations, labor unions, Super PACs, and other groups would be required to have their top official appear in and take responsibility for the ads and the top five donors to a group would have to be listed in the ads.

Real Time Reporting Requirements for Contributions of \$1,000 or More

The Act contains a proposal introduced by Senator Angus King that requires all candidates, parties, and PACs to report each individual contribution they receive of \$1,000 or more to the FEC within 48 hours of receiving the donation and would require the FEC to promptly disclose the contributions.

➤ Super PACs

Ends Single-Candidate Super PACs, Strengthens Coordination Restrictions

The Act contains a proposal introduced by Senator Leahy that shuts down single-candidate Super PACs by including in the definition of coordination the factors that reflect the close working relationships and ties that generally exist between a candidate and a super PAC supporting only that candidate. Once coordination is established, all future expenditures by the individual-candidate Super PAC are treated by existing law as contributions to the candidate, which are limited to no more than \$5,000 per year. This means that spending by the Super PAC to support the candidate is limited to \$5,000 per year.

The Act also strengthens the general prohibition on coordination between a candidate and an outside group by defining coordination to include any campaign ad made by an outside spender pursuant to any general or particular understanding with the candidate, or based on any discussion by the outside spender with the candidate about the campaign ad.

➤ **Enforcement**

A New Campaign Finance Enforcement Agency

The Act contains a proposal introduced by Senator Udall that creates a new enforcement and oversight agency to replace the dysfunctional and failed Federal Election Commission. The new agency would consist of a chair and four other members, appointed by the President, and subject to confirmation by the Senate. The agency chairman would serve a term of 10 years and, unlike the current FEC chair, would have broad powers to manage and administer the agency. The four other members would serve staggered six-year terms, with no more than two affiliated with the same political party.

The new agency would employ impartial administrative law judges to hear and decide campaign finance enforcement proceedings. Unlike the current FEC, the agency would have its own enforcement powers, including the power to find that violations of campaign finance laws have occurred and to directly impose civil penalties.

A Blue Ribbon Advisory Panel, chosen by the President, would assist the President in finding qualified nominees to serve on the agency. The Panel would make recommendations of nominees and would include individuals representing each major political party and individuals independent of a major political party. Panel members would consist of individuals selected from retired judges, former law enforcement officials and lawyers with experience in election law.

➤ **Partisan Gerrymandering**

Establish Citizen Redistricting Commissions

The Act contains a proposal introduced by Senator Udall that requires states to establish independent, citizen redistricting commissions to draw statewide district maps for congressional districts after each decennial census. Redistricting would be conducted through a plan developed by the state commission, or if such a plan is not enacted into law, the redistricting plan selected by the state's highest court or developed by a U.S. district court. The Act sets forth requirements for establishing a state commission, developing a redistricting plan, and having state or federal courts select a plan if the commission's plan is not adopted by the legislature.

➤ **Increase Eligible Voters**

Streamline the Voter Registration Process

The Act contains a proposal introduced by Senator Leahy that establishes automatic voter registration (AVR) procedures for eligible voters and provides that every time a voter interacts with any one of numerous designated government agencies, they would be registered or would

have their information updated. This would include agencies that provide driver licenses, public services and naturalization services, among others.

Individuals would be “automatically” registered to vote unless the person opts out of or affirmatively declines to register. The agency involved would electronically transfer the voter information for automatically registered individuals to election officials. These provisions would improve accuracy, reduce costs and greatly increase the number of eligible voters in the country who are registered to vote.

The provisions also include online voter registration (OVR) for all eligible voters. This would make voter registration lists more accurate and up-to-date and facilitate voter registration drives by groups like the League of Women Voters.

Same Day Registration Act

The Act contains a proposal introduced by Senators Amy Klobuchar (D-MN) and Jon Tester (D-MT) that requires states to allow eligible individuals to register to vote on the day of a federal election and on any day when early voting is permitted.

Vote by Mail Act

The Act contains a proposal introduced by Senator Ron Wyden (D-OR) that require states to mail ballots to all eligible voters in federal elections at least two weeks before the election. Every registered American voter would then have the ability to return their ballot through the mail, using prepaid envelopes, or drop them off at predetermined drop-off locations.

➤ Lobbying Disclosure

Tighten Lobbying Disclosure Laws

The Act contains a proposal introduced by Senator Michael Bennet (D-CO) that would close a major loophole that is being used by former Members of Congress and other individuals to avoid registering as lobbyists, even though they provide strategic lobbying advice to others on how to influence Members of Congress. The Act would tighten lobbying laws by requiring individuals to register as lobbyists if they make two or more lobbying contacts for a client over a two-year period. The registration requirements would no longer exempt an individual who spends less than 20 percent of his or her time serving as a lobbyist for a particular client.

➤ Revolving Door

Close Revolving Door Loopholes

The Act contains a proposal introduced by Senator Tammy Baldwin (D-WI) that prohibits financial services companies from paying huge “golden parachute” bonuses to employees who

leave their companies to take positions in the federal government. The bonuses create conflicts of interest and increase the obligation of the new government employees to treat their former employers favorably. The Act would also slow down revolving door activities by increasing the cooling off period in which individuals leaving government are prohibited from lobbying and by expanding the requirements for individuals entering government service to recuse themselves from participating on official matters involving their former clients.

➤ **Executive Branch Integrity and Transparency**

Require Presidents to Divest Conflict of Interest Assets and Disclose Tax Returns

The Act contains a proposal introduced by Senator Elizabeth Warren (D-MA) that would require the President and Vice President to submit a disclosure of financial interests to Congress and the Office of Government Ethics. The President, the Vice President, the spouse of the President or Vice President, and any minor child of the President or Vice President would be required to divest any financial interest posing a potential conflict of interest by transferring such interest to a qualified blind trust as defined in the Ethics in Government Act.

The Act requires the trustee to sell the financial interests within a reasonable period of time after such financial interests are transferred to a qualified blind trust, and use the proceeds to purchase conflict-free holdings.

The Act also includes a proposal introduced by Senator Wyden to require the current incumbent President and all future presidential nominees of a major political party to file their tax returns for the three most recent taxable years.

Public Disclosure of Visitors to the White House

The Act contains a proposal introduced by Senator Udall that requires the Executive Branch to keep and make available to the public logs of visitors to the White House and to any other location where a President regularly conducts official business. The requirement for the White House to publish its visitor logs was established by President Obama and repealed by President Trump when he took office.

Disclosure of Political Fundraising by Executive Branch Officials

The Act contains a proposal introduced by Senator Whitehouse that requires presidentially appointed executive branch officials to disclose whether they have solicited donations for or contributed funds to PACs, political non-profits, and industry trade associations. This would prevent conflicts of interest for cabinet secretaries and other top executive branch officials who may be charged with regulating the very donors who propelled their political careers.

Other Campaign Finance Reforms

The Act requires the FEC to promulgate regulations with respect to what constitutes “best efforts” under existing law for determining the identification of persons making contributions to

political committees, including the identification of persons making contributions over the Internet or by credit card. It establishes restrictions on candidates and political parties regarding joint fundraising committees and establishes new requirements for lobbyists and political committees to disclose bundled contributions. It establishes uniform judicial review procedures for actions brought to challenge the constitutionality of campaign finance laws. It expands the definition of “public communications” in the Federal Election Campaign Act to include Internet communications by political committees.

The Act also reestablishes a \$5,000 limit on contributions to Super PACs that make independent expenditures and would set the stage for the Supreme Court to decide the constitutionality of limits on contributions to independent spending Super PACs. This is an issue that has never been decided by the Supreme Court, although the DC Circuit Court of Appeals decision in the *Speech Now* case and other Circuit Courts of Appeal decisions have found the limits unconstitutional.