



H.R. 1 – For the People Act (Rep. Sarbanes, D-MD)

FLOOR SCHEDULE:

Expected to be considered on March 8, 2019 under a structured [rule](#).

The rule provides just two hours of general debate equally divided, waives all points of order, allows the chair of the Committee on House Administration to offer amendments en bloc, provides one motion to recommit, and provides suspension authority through March 8, 2019.

The rule considers as adopted (i.e., “self-executes”) a [manager’s amendment offered by Rep. Lofgren \(D-CA\)](#). Given passage of the rule on March 6, 2019, this Legislative Bulletin integrates the elements of the manager’s amendment into the legislative analysis below.

The rule makes in order 72 other amendments that will be addressed in a subsequent Legislative Bulletin.

TOPLINE SUMMARY:

[H.R. 1](#) would make various changes to voting laws, campaign finance laws, and ethics practices, in contravention of Americans’ First Amendment rights and States’ primary constitutional authorities to regulate elections.

COST:

Conservatives should be concerned that the Congressional Budget Office (CBO) has not had time to release a complete cost estimate. In its incomplete estimate, CBO explains that it “has completed an estimate of most discretionary costs under H.R. 1; however, CBO has not completed an estimate of some provisions that might cost tens of millions of dollars.”

According to its incomplete [estimate](#), the bill would increase spending by **\$2.438 billion over FY 2019 – 2024**. CBO assumes that the legislation will be enacted in 2019 and that the specified and estimated amounts will be appropriated for each fiscal year, including supplemental amounts in 2019.

It is critical to note that this CBO estimate does not include spending that would eventually stem from the bill’s “Freedom From Influence Fund” which “would be the sole source of funding for three

programs: the My Voice Voucher Pilot Program (proposed in section 5100), a program to match certain small-dollar contributions to election campaigns for the House of Representatives (proposed in section 5111) and the matching funds for Presidential election campaigns program (as amended in section 5200). CBO expects that the cost of operating those programs could **exceed \$1 billion over the next 10 years**, but because H.R. 1 [, as was reported,] would not authorize any funds to be deposited into the Freedom From Influence Fund, any costs to implement the voucher pilot program and the two programs to provide matching funds would be attributed to future legislation that would provide funds for that Treasury account and not to H.R. 1." ***However***, the manager's amendment added language that would provide for new assessments of 2.75 percent on certain criminal and civil penalties and settlements that would go to the Treasury's General Fund where it would be intermingled with all taxpayer money, and then an equal amount would be transferred from the General Fund to the Freedom From Influence Fund which pays for these programs.

Notable spending authorities in the CBO estimate of the bill as reported include the following:

Voting System Grants. Sections 3001 and 3011 would authorize the appropriation of \$1,545 million over the 2019-2024 period for the EAC to make grants to states to improve voting technology and reduce cybersecurity vulnerabilities in election infrastructure.

Election Assistance Grants. Section 1017 would authorize the appropriation of \$500 million in 2019 and whatever amounts are necessary in future years primarily for the EAC to provide grants to states to implement online and automatic voter registration.

Department of Health and Human Services Grants. Section 1102 would authorize the appropriation of whatever amounts are necessary for the Department of Health and Human Services (HHS) to provide states with grants to make polling places more accessible to people with disabilities.

Election Assistance Commission Reauthorization. Section 1911 would permanently authorize the appropriation of operating funds for the EAC.

Bounty Program. Section 3402 would authorize the Department of Homeland Security (DHS) to establish a program to improve the cybersecurity of the systems used to administer federal elections.

CONSERVATIVE CONCERNS:

Conservatives will be concerned about virtually every provision of this legislation because of their numerous constitutional violations and apparent intent of getting more democrats elected to Congress.

Conservatives may be concerned that this legislation would infringe upon the First Amendment, effectively choosing what speech qualifies as free speech and which Americans are afforded access to the Constitutionally provided privilege of free speech. Conservatives may be concerned that this legislation will actually criminalize certain forms of speech pertaining to elections and polling places, leading to a slippery slope of criminalizing other forms of speech.

This legislation [serves to prevent](#) individuals from participating in the political process – even mentioning an elected official or candidate, could require the reporting of a “campaign-related disbursement.” It would force disclosure requirements on 501(c)(4)s and other organizations, attempting to force them to violate the privacy of their donors. This disclosure requirement would extend to organizations that make grants over \$10,000 to organizations that make “campaign-related disbursements.” These organizations would have to speculate as to the possible political activity of the recipients over a two-year period, which could trigger reporting requirements.

Some conservatives may be concerned that this legislation would repeal a provision that prevented the IRS from going after 501(c) organizations that they do not believe in. This prohibition stemmed from the IRS’ targeting of tea party conservative groups.

Conservatives may be concerned that this legislation federalizes the election process, [violating the Election Clause](#) and principles of the Tenth Amendment by requiring states to adopt numerous voting laws that make election security weaker, encourage voting in multiple jurisdictions, encourage fraudulent voting, and weaken voter ID laws. It would further violate the 14th amendment by requiring states to permit felons that have been released from correctional institutions to vote – meaning convicted rapists and murders could help decide the elected leadership of the United States. Moreover, in trampling the 14th amendment through this legislation, democrats are failing to consider the fact that one cannot change the constitution through simple legislation, rather, a constitutional amendment is required.

This legislation would run roughshod over voter ID laws, permitting sworn statements to serve as identification instead of actual, verifiable identification, even though a substantial number of jurisdictions provide voter identification free of charge.

Conservatives may be concerned that in permitting voting rules like same day voter registration or counting provisional ballots at incorrect polling places, election officials lose the ability to verify a voter’s identity, and therefore make it easier for voter fraud to be perpetrated. Moreover, in using automatic voter registration through state databases, democrats are potentially attempting to facilitate voting by illegal immigrants and 16-year-old children. Online voter registration, despite the myriad of hacks of sensitive information, would further open our election system up to cybercrime.

Conservatives may be concerned that this legislation would make it extraordinarily difficult to check voter eligibility and to remove ineligible or duplicative voters from their rolls, despite the Supreme Court sanctioning certain practices. It would prevent states from comparing voter registration lists to check if voters are registered in multiple jurisdictions.

Conservatives may be concerned that this legislation would permit candidates to essentially enrich themselves through the simple act of running for office, by allowing candidates to use campaign funds to support their personal lives – including child care and health insurance.

Conservatives may be concerned that reducing the number of FEC commissioners from six to five would permit whatever party that held power to effectively have total control over FEC investigations. While currently the FEC relies on bipartisanship to instigate investigations, this legislation would permit partisan enforcement of FEC practices.

Conservatives may be concerned that this legislation infringes on the ability of a state to draw its own congressional districts, in violation of the constitution. Rather it only permits redistricting once per census period, with redistricting handled by an independent commission. Moreover, districts would be required to be based off of a population that includes aliens, regardless of whether or not they are able to vote, thereby skewing the represented population to favor democrats.

Conservatives may be concerned that this legislation interferes with the separation of powers between all branches of the government – imposing a code of ethics on the Supreme Court, mandates new rules for Congress, and prevents the administration from participating in their constitutional duties. The Attorney General and other political appointees would be prohibited from defending or directing the defense in a lawsuit in which the president is a party.

Conservatives may be concerned that this legislation would criminalize constitutionally protected forms of free speech, even if that speech does not actually address campaigns. This legislation is attempting to allow only candidates to have the ability to speak on elections, effectively attempting to bar Americans their right to truly participate in the political process.

Conservatives may further be concerned that this legislation provides the foundation to force Americans to give their hard earned money to political candidates they do not support through a federal matching program and a voucher program, essentially subsidizing political campaigns. The manager's amendment added language that would provide for new assessments of 2.75 percent on certain criminal and civil penalties and settlements that would go to the Treasury's General Fund where it would be intermingled with all taxpayer money, and then an equal amount would be transferred to the Freedom From Influence Fund which pays for these programs.

Conservatives may be concerned that this legislation calls for a Constitutional amendment to overturn Citizens United, and therefore a Constitutional amendment to upend the First Amendment. Even the left-leaning [ACLU](#) has stated they cannot support this legislation as it tramples the First Amendment.

Conservatives may be concerned that this legislation is over 600 pages long, representing a large number of changes within the jurisdiction of other committees. In addition to the House Committee on Administration, the bill was reported to the Committees on Intelligence (Permanent Select), the Judiciary, Oversight and Reform, Science, Space, and Technology, Education and Labor, Ways and Means, Financial Services, Ethics, and Homeland Security. Yet this bill has only had one hearing before its markup in the House Committee on Administration, and is being rushed to the floor with little to no input from members. Because this legislation was only marked up in the Committee on Administration, numerous sections within the jurisdiction of other committees were reserved, and therefore, were not marked up. Moreover, according to the [dissenting views in the committee report](#), Chairman Lofgren stated that the bill “is going through several committees as we know, and amendments will be made in all of them” – when in fact, amendments were only made in one of the ten committees to which this legislation was referred. In the Administration Committee, every single one of the republican amendments was rejected.

Conservatives may be concerned that this legislation is clearly directed at minimizing and/or criminalizing their legal campaign finance activities, with legislation aiming to attack “special-interest dark money, partisan gerrymandering and devious vote-suppression schemes.” [despite the](#)

[fact that Rep. Pelosi has reported](#) the receipt of roughly 41% of her total career donations from PACs and [other](#) democratic members are using LLCs and PACs to decrease transparency in their campaign expenditures.

Conservatives may be concerned that this legislation authorizes millions of dollars for programs, grants, pilot programs, and unconstitutional activities – at times authorizing funds “as needed” for unlimited duration, without total offset and little concern for our nation’s debt.

Conservatives may be concerned that organizations that partake in political activity would be subject to disclosure of their donors. While Super PACs have been historically subject to disclosure requirements, generally speaking, tax-exempt organizations have not, and would now be subject to a huge amount of scrutiny and potential bias for this proposed privacy violation. The effect of these disclosure requirements would be to discourage citizens from exercising their right to Free Speech through their political contributions.

Conservatives may be concerned that the sponsor’s constitutional authority statement cites Article I section 8, which provides for the powers of Congress under the legislative branch. Identifying this section (and no enumerating clauses) as the bill’s constitutional authority is ironic, as the legislation seeks to break down the separation of powers existing between the three branches of government. Moreover, identifying a “constitutional authority” for a piece of legislation that is broadly and largely unconstitutional, implies that Congress has powers outside those which the framers provided, and suggests that Congress has unilateral power to trample the Constitution and its amendments.

For further analysis regarding conservative concerns, see the detailed summary provided below.

DETAILED SUMMARY AND ANALYSIS:

Division A – Voting/Election Access

Division A would require states to adopt a number of new voting laws in contravention of the constitution. Not only would these states lose much of their constitutionally delegated authority to determine how to run their elections, many of these provisions would encourage ineligible individuals to vote, would promote voting in multiple jurisdictions, and would lead to an increase in voter fraud.

The primary constitutional authority for states to regulate federal elections within their border is the Elections Clause of the U.S. Constitution, Article 1, Section 4. It says “the Times, Places and Manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof.” As [explained](#) by J. Christian Adams of the Public Interest Legal Foundation, “This is the default presumption in the Constitution, and for good reason. Fifty states and thousands of counties are better suited to running elections than federal officials. Elections are less subject to manipulation when they are run closer to the people. But alas, advocates of H.R.1 go all-in on the last part of Article 1, Section 4, which states, ‘but the Congress may at any time by Law, make or alter such Regulations.’”

Internet registration

Division A would require states to adopt online voter registration or registration through automated telephone, despite concerns presented by various hacking and cybersecurity issues seen in recent years. This provision would take effect on January 1, 2020, with waivers until 2022.

Automatic Voter Registration

This legislation would trample [constitutionally guaranteed](#) liberties by requiring mandatory automatic voter registration. Some conservatives may believe this is both misguided and infringes on the rights of everyday Americans in a very [authoritarian](#) way. Forcing voter registration on all constitutes the government taking away choice, and therefore rights, from Americans. Mandatory voter registration also paves the way for a potential increase in voting by illegal immigrants. By requiring automatic registration, states that provide drivers licenses to illegal immigrants for example, could possibly be added to the voter registration system, rendering an ineligible person able to vote. The bill would further authorize \$500 million for FY 2019 for the Election Assistance Commission (EAC) to supply states with grants to implement automatic voter registration, and permanently authorize any needed funds for the EAC in the following years.

This provision would require states to allow 16-year-olds the ability to register to vote.

This provision would take effect on January 1, 2021, with waivers until 2023.

Same Day voter registration

Division A would require states to adopt same day voter registration in contravention of state's constitutional authority to regulate elections. Same day voter registration would give election officials no time to verify if someone is actually legally permitted to vote.

Removal on basis of interstate cross checks

Division A would restrict the ability of states to coordinate in determining if someone is registered to vote in multiple states at once, without detailed personal information. Cross-checks that are performed must be completed at least six-months in advance of an election, even if later information alluding to potential voter fraud comes to light.

Help America Vote Act

This provision would permit the usage of HAVA requirements payments for the new required voting programs.

This legislation also creates a private right of action within HAVA – expressly against Congressional intent following Bush v. Gore.

Prohibition on interference with voter registration and prohibition of deceptive practices in federal elections

This legislation would restrict free speech by criminalizing false statements a person could make regarding federal elections and public endorsements prior to elections. It would also criminalize interference with a person voting or attempting to register to vote and would provide for criminal penalties for doing so. Conservatives should look at this skeptically because this would expand the criminal code in the area of free speech, which may be a slippery slope for criminalizing other forms of speech.

State and local election officials would be required to correct false information and, if not done sufficiently, would be required to publicly disseminate the information.

It is [already](#) a violation of the National Voter Registration Act to threaten someone for registering to vote or vote, criminally punishable by a fine or up to five years in prison. This type of behavior is also already criminally punishable under the Voting Rights Act.

This legislation would provide for a private right of action and criminal penalties of a fine of not more than \$100,000 or up to 5 years in prison, or both. It would also provide for procedures for corrective action for the Attorney General. The Attorney General would be authorized funds as appropriate.

Moreover, in addressing deceptive practices and voter intimidation, this legislation adds vague language referring to hindering or interfering with already prohibited actions pertaining to voting, without any definition as to what activity falls under the language.

Disabled access to voting

Division A would provide for procedures to facilitate access to voting for disabled individuals. It would authorize \$5 million for studies on how to make paper ballots accessible for disabled individuals. It would permit individuals with disabilities to vote through absentee registration and by absentee ballot. It would reauthorize and expand grant programs under HAVA for voting access for disabled individuals, with funds as needed for FY2020 and each successive year.

The manager's amendment added language that would establish a pilot program, subject to appropriations, for enabling those with disabilities to register to vote privately and independently at their residences.

Prohibiting Voter Caging

Division A would hinder legal attempts to maintain voter lists for the purposes of eliminating improper voter registrations and illegal voting. The Supreme Court upheld this method of list-maintenance in [Husted v. Randolph Institute](#) in 2018, finding that returned confirmation notices sent to inactive voter addresses comported with the National Voter Registration Act and the Help America Vote Act. It would prohibit challenges to an individual's eligibility to vote by anyone other than an election official, without extensive proof and an oath, subject to perjury. It would also prohibit challenges to eligibility, other than by election officials, for federal elections on election day or within 10 days of election day, unless a person registered to vote less than 20 days before an election. Violations would be punishable by fine, imprisonment of not more than one year, or both.

Felon voting rights

This division would also require states to permit felons no longer in corrections institutions to vote in contravention of the 14th amendment.

Permanent paper ballot

Division A would require mandatory paper ballots, [despite lessons learned in Florida with hanging chads during the Bush/Gore election](#).

Provisional ballots

Division A would require provisional ballots cast at incorrect polling places to be counted – despite the fact that incorrect polling places won't be able to verify accurate voter information.

Early voting

Division A would extend early voting unilaterally everywhere, regardless of state procedures, to 15 days prior to a federal election, for a minimum of four hours each day.

Mail voting

States would be required to promote voting by mail for those eligible. They would only have to compare signatures on the ballot with those on an official list to verify identity.

Overseas voters

Division A would require states to submit pre-election reports on the availability and delivery to absentee ballots to overseas voters and absent uniformed services voters to the Attorney General at least 55 days before a federal general election. Penalties would be imposed through civil actions for states that violate any part of this provision.

Poll workers

This provision would provide grants to states for the recruiting and training of poll workers. The manager's amendment provides that the EAC grants to states for recruiting and training poll workers are subject to appropriations.

Prohibition on Campaign Activities by Chief State Election Administration Officials

This provision would prohibit chief state election administration officials from taking part in political management or in a political campaign for elections to federal office.

Voter Access

This provision would provide for voting on college campuses and various notification requirements regarding polling places.

The manager's amendment eliminated a provision in the bill that would have made election day a legal public holiday and encouraged private businesses to follow suit.

This legislation would permit voters to provide sworn written statements, as opposed to actual identification, to comply with state voter identification requirements. It would be easier to improperly vote than to have a name removed from a registration list. States could only remove voters from their lists if they find someone is registered in another state if they have their full name, date of birth, and abbreviated Social Security Number or if the Electronic Registration Information Center indicates they live in another state.

This division would provide for absentee ballots to be carried without postage, with states reimbursing the postal service for the cost. This provision would authorize funds as necessary to be appropriated for the carrying of absentee ballots.

Voter Information Response System and Hotline

This division would authorize the establishment of state-based response systems for questions and complaints about voting. It would also provide for the establishment of a hotline to connect to the response systems. It would also establish a voter hotline task force, and would appropriate funds as necessary for FY19 and successive years.

Election Assistance Commission

This provision would reauthorize the Election Assistance Commission and require states to participate in post-general election surveys. It would require the EAC to conduct an assessment to make recommendations to improve the EAC's operations.

Northern Marianas

This provision would extend the National Voter Registration Act of 1993 and HAVA to the Northern Mariana Islands.

VRA findings

This provision includes a detailed findings section that encourages Congress to uphold the Supreme Court's decision in Shelby County v. Holder and alleges Congress is committed to doing so. Accordingly, Democrats encourage Congress to pursue the violation of the Tenth Amendment to reinstitute outdated requirements on states' voting laws.

While the Voting Rights Act of 1965 (VRA) was passed into law as an important effort to eliminate racial discrimination in voting, it was struck down for violating constitutional principles of federalism and equal state sovereignty. Certain provisions of the VRA only apply to a select number of jurisdictions which were determined by a coverage formula under Section 4 of the VRA. If covered, jurisdictions were required to obtain preclearance from the Attorney General or the U.S. District Court for the District of Columbia, prior to implementing any voting law.

As [noted by the Supreme Court](#), the Voting Rights Act "sharply departs from these basic principles [of state sovereignty]... States must beseech the Federal Government for permission to implement laws that they would otherwise have the right to enact and execute on their own.... "

The Supreme Court invalidated the coverage formula, rendering the preclearance requirement unenforceable, noting [that the VRA](#) "employed extraordinary measures to address an extraordinary problem," measures which the Court determined, were no longer necessary in modern time, in part due to societal advancement, and largely because of the disparate treatment of the states and the challenges that treatment poses for the Tenth Amendment.

Chief Justice Roberts [continued](#) that the VRA essentially served its purpose at the time – "voting tests were abolished, disparities in voter registration and turnout due to race were erased, and African-Americans attained political office in record numbers," but the coverage formula provided through Section 4 following its last reauthorization did not take into account the strides that had been made. In rendering its opinion, the Supreme Court left in place the ban on discriminatory voting rules as well as the preclearance requirement, but invalidated the coverage formula that indicated which states were subject preclearance. In doing so, the Court indicated that discrimination in voting is still an illegal practice that should not return, but left room for the states to exercise their Tenth Amendment right to determine their own election laws.

Despite the sound reasoning of the Supreme Court in Shelby County v. Holder, H.R. 1 would express Congressional commitment to enacting potentially unconstitutional and disparate federal statutes intervening in state election law.

Native American voting findings

This division includes findings pertaining to safeguarding the voting rights of Native Americans.

DC statehood findings

This division would provide for congressional findings that the District of Columbia should have full voting rights in Congress, which only can be provided for through statehood. The objective of and establishment of the District of Columbia was to make an autonomous capital free from state political pressure to which the federal government may be subject. The Constitution explicitly enumerates this principle.

Territorial voting rights

This provision includes findings recognizing territorial voting rights.

Congressional Task Force on voting rights

The manager's amendment adds language that would establish a congressional task force on voting rights of US citizens residing in territories of the United States and details the task force make-up.

Congressional Redistricting

This provision would take the power away from the states to determine methods for redistricting by claiming Congress has the authority under Article I, Section 4 of the Constitution to set terms and conditions to be followed in carrying out congressional redistricting. It would put the power to address redistricting in the hands of an independent commission, limiting accountability and would stop states from redistricting more than one time after a census unless court ordered. The commission would further provide states with \$150,000 per district for the redistricting commission. Single Representative states would not be authorized funds.

The manager's amendment added language to make payments to states for establishing the redistricting commissions subject to the availability of appropriations pursuant to the blanket as-needed authorization provided under the provision.

Should a district not approve an independent commission, the Judicial branch would be given the right to establish congressional district. While the Constitution clearly affords this power to the legislative branch, this legislation seeks to transfer this power to the judiciary.

Voter purging

This provision would detail the difficult manner states must undertake to remove someone from a list of registered voters. States could not consider factors like failure to vote, failure to respond to notice, or failure to take any other action with respect to voting as reason to remove someone from a voter list. States must provide notice of removal.

Money for election infrastructure

Division A would authorize \$500 million for FY19 and amounts as needed for the years following for the Election Assistance Commission for state grants for online and automatic voter registration implementation. It would provide grants for states for improving election security and for conducting risk-limiting audits of results of elections.

Election infrastructure security and election hacking

This division aims to upgrade election security and hacking prevention methods, claiming need by providing a sense of Congress that Russian interference impacted the 2016 federal elections. It would further require the President to establish a national strategy plan to protect democratic institutions. It would authorize one billion dollars for FY 2019 and \$175 million for even fiscal years between FY 2020-2026 for grants to states for election security. This provision would also authorize \$20 million for states for conducting risk-limiting audits of results of elections.

Division B – Campaign Finance

Division B would make a series of changes pertaining to campaign finance rules, would provide taxpayer funding for individual campaign contributions to candidates, and would change the structure of the federal elections commission.

DISCLOSE Act

The manager's amendment modified the bill to provide a ban on the participation of foreign nationals in election related activities by prohibiting a foreign national from directing, dictating, controlling, or participating in the decision making process of a person, corporation, political committee or organization, regarding federal or non-federal election related activity. It would provide for the filing of certifications of compliance prior to making a disbursement, contribution, expenditure, etc.

Reporting of Campaign Related Disbursements

This provision would require LLCs, 501(c)(4)s, labor organizations, political organizations, and political committees that make campaign related disbursements totaling more than \$10,000, to disclose the disbursements, including the beneficial owner of the covered organization, other legal entities they are associated with, the amount of each disbursement of more than \$1,000 and to whom the disbursement is made, and the election to which the disbursement is made. For payments not made from segregated funds, the disclosure must include all names and addresses of each person that made such payment. All organizations that partake in political activity would be subject to disclosure of their donors. While Super PACs have been historically subject to disclosure requirements, generally speaking, tax-exempt organizations have not, and would now be subject to a huge amount of scrutiny and potential bias for this proposed privacy violation.

The effect of these disclosure requirements would be to discourage citizens from exercising their right to Free Speech through their political contributions.

This provision would also detail the procedure for judicial review for actions pertaining to campaign finance laws.

“Honest” Ads

This provision begins with touting Supreme Court established standard “that the electorate bears the right to be fully informed,” despite previously denouncing Supreme Court decisions pertaining to free speech.

This provision would expand what is included as a public communication and would expand the definition of “electioneering communications” to digital communications in order to require more onerous Federal Election Commission (FEC) regulation over free speech, including required disclosure for online platforms of requests to purchase political advertisements.

This provision would expand electioneering communications to include paid online ads. Platforms like Facebook would be required to keep a public record of ad requests for those political in nature from groups and individuals.

Stand by Every Ad

This provision would require expanded disclaimers for communications made by individuals that are not candidates or committees, requiring disclosure of who is making or funding (a Top Five or Top Two Funders List) the communication.

“Secret money”

This provision would repeal a provision of the Fiscal Year 2018 Consolidated Appropriations Act (a.k.a. the FY 2018 Omnibus) that prohibited the use of funds for the IRS to issue regulations modifying the definition and standards for 501(c)(4) organizations. The appropriations provision was originally put in place following allegations of the IRS targeting conservative and tea party groups.

The manager’s amendment added language to the bill that would repeal [IRS revenue procedure 2018-38](#) which was an IRS directive that exempted certain non-profits from contributor disclosure requirements.

Shareholder right to know

This provision would repeal a provision in the Fiscal Year 2018 Consolidated Appropriations Act that prohibited funds from being used by the SEC to issue or implement rules pertaining to political contributions, allowing the SEC to require companies to provide this information to shareholders.

Disclosure of political spending of government contractors

This provision would repeal a provision in the Fiscal Year 2018 Consolidated Appropriations Act that prohibited agencies from requiring federal contractors to disclose in their offer for a contract any contributions made for electioneering communications to candidates or political committees.

Disclosures for Presidential inaugural committees

This provision would put further restrictions on donations to inaugural committees and would require disclosures of donations given in the amount of \$1,000 or more.

Citizens United Findings

This provision includes a lengthy congressional findings section alleging that Congress believes, contrary to the rights provided to all Americans by the First Amendment, that the Supreme Court’s opinion in [Citizen’s United v. FEC](#) was erroneously made and calls for a constitutional amendment allowing the government and the states to limit free speech.

In 2008, Citizens United sued the Federal Election Commission, arguing that their campaign finance rules were unconstitutional, restricted free speech and infringed on its First Amendment rights. The Supreme Court sided in favor of Citizens United, finding that the government could not infringe on the ability of a corporation, non-profit, labor union, or other association to engage in independent political advocacy and spending during elections, including by financing electioneering communications.

The decision in Citizens United reaffirmed what conservatives know to be true and the Constitution affirms for all Americans as absolute: that the freedom to think and express for ourselves is guaranteed through the Constitution. Calling for a Constitutional Amendment regarding Citizen’s United is akin to saying we can pick and choose what free speech is and who is able to enjoy free speech. This proposed amendment would effectively counteract the freedoms guaranteed by the First Amendment.

Moreover, while Citizens United did make significant changes to campaign finance law, it did not completely overrun all restrictions on campaign finance. The Citizens United case did not overturn the ban on corporations giving directly to candidates' campaigns or political parties.

Just as the decision has not drowned out the will of the individual, Citizens United has not quashed free speech either. Citizens United has, in fact, [brought](#) rise to [more forms of free speech](#) and more successful challenges to incumbents and establishment candidates on both sides of the aisle. If Citizens United were overturned, free speech would suffer – in limiting the way money is spent to influence the outcome of elections, we would be [limiting the ability of candidates to communicate with potential voters](#).

Providing Taxpayer Funds as Individual Contributions to Political Candidates

Subtitle B of Title V would provide for an enormous misuse of taxpayer funds, and in doing so would run roughshod of all Americans' right to free speech. First, it would establish a "My Voice Voucher" Pilot program to permit states to give \$25 vouchers to residents from taxpayer funds to then be submitted as an individual contribution to the House candidate(s) of that individual's choosing. Because the money would come from a pot of taxpayer funds, Americans could essentially be forced to give their hard earned money to candidates they don't ideologically support. The tax money of a Nancy Pelosi supporter effectively could go to Kevin McCarthy and vice versa.

In H.R. 1, Democrats are calling for an end to what they consider to be improper campaign finance laws, while simultaneously trying to take Americans' tax dollars to fund individual contributions clearly intended to skew campaign financing toward democratic candidates, who historically have higher rates of small-dollar donations.

Perhaps even more egregious, H.R. 1 would also provide for a small-dollar [donation match by a factor of 6-1, up to \\$200](#), with match funds taken out of a pool of taxpayer money, known as the "Freedom from Influence Fund," for qualifying presidential and congressional candidates, again in an attempt to favor donation to democratic candidates. Presidential candidates could receive up to \$250 million in matching funds. Like the "My Voice Voucher" program, this provision would similarly infringe on Americans' right to free speech, as their taxpayer provided funds could eventually be used to fund candidates they do not support. Individuals would be permitted to make multiple small dollar donations to candidate(s). Additional payments could be made to candidates on the ballot for general elections. The free-from-the-government "My Voice Vouchers" would also be eligible for the 6-to-1 match.

The manager's amendment added language that would provide for new assessments of 2.75 percent on certain criminal and civil penalties and settlements that would go to the Treasury's General Fund where it would be intermingled with all taxpayer money, and then an equal amount would be transferred to the Freedom From Influence Fund which pays for these programs.

Personal use services as authorized campaign expenditures

This provision would permit candidates to use campaign resources to pay for personal services like childcare or health insurance. Some conservatives may feel by opening the door to personal use services the government is giving candidates the opportunity to personally enrich themselves by running for office.

Changes to the FEC

This provision would change the make-up of the FEC from 6 members to 5 members, under the guise of "breaking gridlock." This, however, would essentially let the chairman stack the career staffers

with those adherent to a singular political party. Whereas currently bipartisan cooperation is required to go after a candidate for campaign finance violations, under the proposed changes, one party would unilaterally be able to accuse and investigate someone. The chair would have sole [authority](#) to direct investigations, appoint and remove staff, issue subpoenas, etc.

This provision would make a number of other changes to service on the commission and the commission's procedures, and would make the FEC's ability to fine violators of disclosure requirements (previously this had been extended through 2023). This provision would also amend the process for beginning investigations.

Super PAC-candidate "coordination"

This provision tries to limit the activities of super PACs by expanding the definition of a coordinated expenditure and limiting the ability of single person super PACs to operate. This provision would essentially apply to any person or group that wish to speak about elections or candidates. Currently legal communications made by advocacy groups would be prohibited – even if the communications do not directly address campaigns. It would redefine what "coordination" means, so that even meaningless conversations with members of Congress could be punishable. It would expand "coordination" so that many groups and independent nonprofits would become coordinated spenders, even absent actual coordination with a candidate. This goes against Supreme Court precedence, as they held in *Colorado Republican Federal Campaign Committee v. FEC* [that](#) "the FEC could not simply presume coordination – rather, coordination had to actually be proven to exist in fact in order to be regulated.

This provision would essentially make constitutionally protected speech illegal.

Division C – Ethics

This division attempts to legislate ethical codes for the Supreme Court, Executive Branch and Legislative Branch.

Supreme Court ethics code

This provision would require the Supreme Court to adopt a code of ethics, matching the Code of Conduct for US Judges. Presently, the Supreme Court isn't subject to an ethical code.

Foreign Agents

Despite the fact that the government already has oversight over foreign agents, this bill would require the establishment of an additional enforcement unit, to police violations of the Foreign Agents Registration Act – something the government already does. But, this provision would appropriate even more money to do so, authorizing \$10 million for FY19 and each fiscal year thereafter. This provision would authorize the Justice Department to fine individuals who do not correct their registration within 60 days after being notified their filing contained an error.

Lobbying disclosure

This provision would require FEC reports from political committees to disclose information about donors that are registered lobbyists. It would also require disclosures for outside groups funding electioneering communications. This provision would also require political consultants to register as lobbyists if they perform services or counseling in support of someone's lobbying contacts, even if they do not actually lobby themselves. There is, however, no clearly provided definition of what counseling is, and therefore the term could encompass a great deal of activity.

Recusal of Presidential Appointees

This provision would require any officer or employee appointed by the President to recuse himself in matters in which the President, their spouse, or an entity in which the President has a substantial interest is a party. This is a clear directed dig at the Trump administration.

Ethics reforms for the executive branch

This provision would impose a series of ethics requirements on the executive branch, including prohibiting the president or vice president, or entities associated with them, from contracting with a federal agency; require waivers from President Trump's ethics pledge to be posted online; and require the president and vice president to issue financial disclosures within 30 days of taking office.

This provision would extend the "revolving door" rule, extending the post government cooling-off period to two years.

This provision would require the president and vice president to divest of all financial interests that could pose a conflict of interest.

It would prevent certain executive branch employees from working on issues that affect former employers or clients.

Candidates for president or vice president would be required to provide tax returns going back 10 years to the FEC, who would then make the returns publicly available. Current presidents and vice presidents would be subject to the same requirement.

The manager's amendment added language to the bill that clarifies that tax returns to be provided by the president and vice president or candidates for the positions, includes individual returns and returns of any corporation, trust, or partnership in which the president or vice president has a significant interest as the sole or principle owner or principle beneficial owner.

This provision would also require disclosure of security clearance applications and approvals of applications prior to elections.

Ethics reforms for Congress

This provision would address congressional ethics, prohibiting members of the House from serving on for-profit boards. It would also prevent members and their staff from using their positions in support of legislation that would be personally beneficial. Members of Congress would be required to reimburse the government for any employee discrimination settlements.

Office of Government Ethics

This provision would reauthorize the OGE through 2023, limiting the president's ability to remove the OGE director and expanding the OGE's authority to Executive Branch staff. It would permit the OGE to issue subpoenas.

GROUPS OPPOSED:

Additional Resources:

Heritage Foundation: [Factsheet on H.R. 1](#)

Institute for Free Speech Analysis: [Part 1](#) [Part 2](#) [Part 3](#)

Institute for Free Speech: [Changes to Current Campaign Finance Laws Proposed by H.R. 1](#)

Public Interest Legal Foundation Analysis: [H.R. 1: Democrats Act to Strip State Powers Over Elections](#)

Key Votes

Americans for Prosperity - [Key Vote No](#)

Americans for Tax Reform - [Key Vote No](#)

Associated Builders and Contractors - [Key Vote No](#)

Club for Growth - [Key Vote No](#)

Family Research Council - [Key Vote No](#)

FreedomWorks - [Key Vote No](#)

Heritage Action for America - [Key Vote No](#)

International Franchise Association - [Key Vote No](#)

March for Life - [Key Vote No](#)

National Right to Life - [Key Vote No](#)

National Taxpayers Union - [Key Vote No](#)

NumbersUSA - [Key Vote No](#)

US Chamber of Commerce - [Key Vote No](#)

Coalition Letters

[16 Secretaries of State](#)

[250+ local chambers of commerce](#)

[Conservative Action Project](#)

Outside Groups

[60 Plus Association](#)

[Agricultural Retailers Association](#)

[Airlines for America](#)

[ALEC Action](#)

[Alliance of Automobile Manufacturers](#)

[American Bankers Association](#)

[American Civil Liberties Union](#)

[American Commitment](#)

[American Council of Engineering Companies](#)

[American Financial Services Association](#)

[American Forest & Paper Association](#)

[American Foundry Society](#)

[American Petroleum Institute](#)

[American Property Casualty Insurance Association \(APCIA\)](#)

[Americans for Prosperity](#)

[Americans for Tax Reform](#)

[Associated Builders and Contractors](#)

[Associated General Contractors of America](#)

[Associated Wire Rope Fabricators](#)

[Auto Care Association](#)
[Campaign for Liberty](#)
[Center for a Free Economy](#)
[Center for Individual Freedom](#)
[Club for Growth](#)
[Coalition to Reduce Spending](#)
[Concerned Veterans for America](#)
[Construction Industry Round Table](#)
[Consumer Action for a Strong Economy](#)
[Council for Citizens Against Government Waste](#)
[Energy Equipment and Infrastructure Alliance](#)
[Faith and Freedom Coalition](#)
[Family Business Coalition](#)
[Food Marketing Institute](#)
[Foodservice Equipment Distributors Association](#)
[ForAmerica](#)
[Free the People](#)
[Freedom Foundation](#)
[Freedom Foundation of Minnesota](#)
[Freedom Partners Chamber of Commerce](#)
[FreedomWorks](#)
[Goldwater Institute](#)
[Heating, Air-conditioning & Refrigeration Distributors International \(HARDI\)](#)
[Heritage Action](#)
[Hispanic Leadership Fund](#)
[Independent Electrical Contractors, Inc.](#)
[Institute for Free Speech](#)
[Institute for Liberty](#)
[Insurance Associates, Inc.](#)
[International Association of Plastics Distribution](#)
[International Foodservice Distributors Association](#)
[International Franchise Association](#)
[James Madison Center for Free Speech](#)
[Less Government](#)
[Liberty Guard](#)
[March for Life](#)
[Mississippi Center for Public Policy](#)
[Motorcycle Industry Council](#)
[National Association for Gun Rights](#)
[National Association of Chemical Distributors](#)
[National Association of Electrical Distributors](#)
[National Association of Manufacturers](#)
[National Black Chamber of Commerce](#)
[National Club Association](#)
[National Electrical Contractors Association](#)
[National Grocers Association](#)
[National Independent Automobile Dealers Association](#)
[National Insulation Association](#)
[National Investor Relations Institute](#)
[National Lumber and Building Material Dealers Association](#)

[National Marine Distributors Association](#)
[National Taxpayers Union](#)
[National Waste & Recycling Association](#)
[North American Millers Association](#)
[People United for Privacy](#)
[Portland Cement Association](#)
[Retail Industry Leaders Association](#)
[Taxpayers Protection Alliance](#)
[Tea Party Nation](#)
[Tea Party Patriots Action](#)
[Textile Care Allied Trades Association](#)
[The LIBRE Initiative](#)
[The National Stone, Sand and Gravel Association](#)
[The Toy Association](#)
[Transportation Intermediaries Association](#)
[U.S. Chamber of Commerce](#)

COMMITTEE ACTION:

H.R. 1 was introduced on January 3, 2019 and was referred to the committees on:

- Homeland Security
- Ethics
- Financial Services
- Ways and Means
- Education and Labor
- Science Space and Technology
- Oversight and Government Reform
- Judiciary
- Intelligence
- Administration

The Committee on Administration ordered the legislation to be reported, amended, on February 26, 2019 – after a mark-up in only one of the above committees, on which sits only three republican members.

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#): “The Administration opposes House passage of H.R. 1, the For the People Act of 2019. H.R. 1 proposes an overreach of Federal power that would violate constitutional principles of separation of powers, federalism, and freedom of speech.”

CONSTITUTIONAL AUTHORITY:

According to the sponsor: Congress has the authority to enact this legislation under Article I, section 8.

Article I section 8 provides for the powers of Congress under the legislative branch. Identifying this section (and no enumerating clauses) as the bill’s constitutional authority is ironic, as the legislation seeks to break down the separation of powers existing between the three branches of government. Moreover, identifying a “constitutional authority” for a piece of legislation that is broadly and largely unconstitutional, implies that Congress has magical powers outside those which the framers

provided, and suggests that Congress has unilateral power to trample the Constitution and its amendments.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*