



Written by [Alex Newman](#) on November 25, 2011

Democrats Seek Amendments to Restrict Free Speech

One of the amendments, introduced in the U.S. Senate this month by Sen. Tom Udall (D-N.M.) and other Democrats, would give Congress the authority to further regulate and limit spending in federal elections. State governments would also be allowed to intrude in state-level political campaigning.

"As we head into another election year, we are about to see unprecedented amounts of money spent on efforts to influence the outcome of our elections," Udall said in a statement. "With the Supreme Court striking down the sensible regulations Congress has passed, the only way to address the root cause of this problem is to give Congress clear authority to regulate the campaign finance system."



While [the amendment](#) does not specify the regulations, it would allow Congress to pass laws limiting contributions to candidates. Independent political spending for or against any campaign — such as through advertisements highlighting a candidate's voting record — could also be restricted or prohibited if the amendment were to pass.

The *Citizens United* ruling involved a non-profit corporation attempting to expose then-presidential candidate Hillary Clinton by advertising and purchasing TV time. Citing the unconstitutional [McCain-Feingold "campaign-finance reform" statute](#), the Federal Election Commission barred the group from presenting its information to the public. The Supreme Court eventually ruled that the prohibition violated the First Amendment.

"The Supreme Court decision in *Citizens United v. Federal Election Commission* promises to unleash the electoral fury of America's small businesses and citizens groups," [noted](#) *The New American* magazine's Thomas Eddlem after the 5 to 4 ruling last year. "This unqualified positive development is one of the best reasons for constitutionalists to cheer a court decision in decades. So it's no surprise that the official Left is squealing like a stuck pig over the decision."

In addition to overturning the U.S. Supreme Court's landmark ruling in *Citizens United v. FEC*, the proposed amendment introduced in the Senate would also undo the 1976 [Buckley v. Valeo](#) decision. In that ruling, the high court asserted that election spending is a form of free speech.

Not everyone agrees that it is, however. So far, a petition supporting Udall's amendment has gathered more than 100,000 signatures. Nine other radical Senators are in the coalition backing it, including Dick Durbin (D-Ill.), Chuck Schumer (D-N.Y.), and self-described socialist Bernie Sanders (I-Vt.). Also supporting the measure are members of the "Occupy Wall Street" movement and leftist groups promoting big government such as People For the American Way.

"In *Citizens United*, the Supreme Court put our democracy [sic] up for sale, and as a result, a



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constitutional amendment is the only way to completely stop the flood of special interest spending in our election system," said PFAW Vice President Marge Baker in a [statement](#). "The American people — not deep pocketed corporations — should be the loudest voice when we choose our leaders."

A separate effort being advanced by other groups to amend the Constitution, known as "[The People's Rights Amendment](#)," would take a different approach to the issue. Introduced in the House by Rep. Jim McGovern (D-Mass.) on November 15, the proposal would explicitly exclude corporate entities — groups of individuals acting for a common goal — from constitutional protections such as free speech.

"Corporations are not people," McGovern said in a [statement](#). "They do not breathe. They do not have children. They do not die in war. They are artificial entities which we the people create and, as such, we govern them, not the other way around."

McGovern said the high court's ruling upholding freedom of speech was "extreme." He also claimed the decision "eroded" the First Amendment ("Congress shall make no law ... abridging the freedom of speech") and the Constitution, though he did not explain how or why. "Now is the time for a 28th Amendment that lifts up the promise of American self-government: of, for, and by the people," McGovern concluded.

The group that authored the amendment, "Free Speech For People," applauded McGovern for introducing it. "For the first time, the United States Congress now has the opportunity to debate a constitutional amendment bill that raises the fundamental question of whether people or corporations shall govern in America," claimed campaign director John Bonifaz, who co-founded the group on the same day as the *Citizens United* decision.

"The nation is ready for this debate," Bonifaz claimed in a [press release](#). "Americans understand that our democracy [sic] is at stake and that we must fight to preserve it. We see Congressman McGovern's proposed amendment as another important strike on behalf of the 99 percent."

A third proposed constitutional amendment to limit free speech and overturn *Citizens United* is inspired directly by the Occupy movement. Known as the "Outlawing Corporate Cash Undermining the Public Interest in our Elections and Democracy" (OCCUPIED) Amendment, it was [introduced](#) in the House by Rep. Ted Deutch (D-Fla.) on November 17.

"Americans of all stripes agree that for far too long, corporations have occupied Washington and drowned out the voices of the people," Deutch claimed in a statement. "I introduced the OCCUPIED Amendment because the days of corporate control of our democracy [sic] must end. It is time to return the nation's capital and our democracy to the people."

Despite similar goals, however, a group called "Motion to Amend," which has been lobbying hard for an amendment restricting free speech, is expressing reservations about the proposals introduced so far. "Passing an amendment will be a tough job, so the language must be commensurate with the effort needed to win," it said in a [statement](#) released this week. "The amendment must be strong and clear enough to end corporate rule — there's no room here for half solutions or ambiguity."

For one of the constitutional amendments to be adopted, it would have to be approved by a two-thirds majority in each house of Congress. Then it would need to be ratified by three fourths of the states. According to analysts, that will be extraordinarily difficult to accomplish — as the Founding Fathers intended — especially with so much opposition.

Last year, after the *Citizens United* ruling, Democrats in Congress tried to limit the effectiveness of the



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court's decision by passing the so-called "DISCLOSE" (Democracy Is Strengthened by Casting Light On Spending in Elections) Act. The legislation, which critics [noted](#) would violate the First Amendment, eventually died in the Senate after failing to muster Republican support.

The opposition to restrictions on freedom of speech is still solid. And critics of the push for amending the Constitution say limiting the rights guaranteed by the First Amendment is not the solution to corporate abuse of governmental power. Instead, they argue, Congress should simply obey the Constitution as it is written — that would limit government power and make corporate lobbying for special benefits a waste of time and effort.

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