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H.R. 1 and S. 1: Overview and Related CRS Products

Brief Overview

H.R. 1 and S. 1, the For the People Act, propose major amendments to federal law governing campaign finance and elections. The bills' provisions, unless otherwise noted, would affect federal elections, although states would be responsible for implementing some provisions. The legislation also proposes amendments to federal ethics and lobbying statutes. It generally proposes additional disclosure requirements, regulation, or both in each policy area it addresses. It would authorize federal funding for some activities. This CRS In Focus highlights major provisions in the bills and lists selected CRS products that provide related information. It does not address legal or constitutional issues.

Recent Congressional Activity

The House passed an amended version of H.R. 1 on March 3, 2021. In the Senate, the Rules and Administration Committee held a hearing on S. 1 on March 24, 2021. On May 11, 2021, the Senate Rules and Administration Committee held a markup of S. 1. Although the committee adopted some proposed amendments, it declined, via 9-9 votes, to approve most. On the final vote to report S. 1 with amendments, the committee again tied 9-9, thus declining to recommend that the Senate take further action on the bill and the committee-approved amendments. Additional legislative activity is possible. This CRS product summarizes the introduced version of S. 1 and House-passed version of H.R. 1.

Notable changes in the 117th Congress versions of H.R. 1 (as passed and as introduced) and S. 1 compared with the 116th Congress version of H.R. 1 (and companion measure S. 949) include additional provisions addressing (1) congressional findings justifying the legislation and its constitutionality; (2) early and mail voting, polling place operations, and emergency contingency planning; and (3) foreign interference in U.S. campaigns and elections.

H.R. 1 and S. 1 are among the broadest legislative proposals addressing campaign finance, elections, ethics, and lobbying introduced in recent decades. The bills are both similar to and different from other recent legislation on these topics. Specifically, several titles or subtitles in H.R. 1 and S. 1 were introduced as stand-alone bills in previous Congresses or the current one. The 117th Congress legislation contains three divisions concerning elections and voting (A); campaign finance (B); and ethics and lobbying (C).

Highlights of Major Provisions

If enacted, the For the People Act could substantially affect campaigns, elections, ethics, and lobbying in the United States. In each of those areas, some parts of the bills would

create new federal requirements or roles. In others, the bills propose to amend existing ones. A brief discussion of major provisions appears below.

Campaign Finance

Campaign finance provisions in the legislation would substantially amend the Federal Election Campaign Act (FECA) and related statutes. Major provisions would (1) require additional disclosure of campaign-related fundraising and spending, including by some entities that do not currently typically report to the Federal Election Commission (FEC); (2) establish a voluntary public financing system for U.S. House and Senate campaigns (addressed separately in H.R. 1 and S. 1, respectively); (3) substantially revise the current presidential public financing system; (4) require additional disclaimers surrounding certain political advertising, and restrict coordination between campaigns and other organizations; and (5) restructure the FEC. The bills also would clarify and extend existing FECA prohibitions on foreign interference in U.S. campaigns and elections, and require related reporting.

Many of the disclosure provisions are adapted from the DISCLOSE Act proposal, introduced regularly since the Supreme Court's 2010 *Citizens United* ruling, which permitted corporate and union independent spending to elect or defeat electoral candidates. If enacted, the proposed House and Senate public financing programs would be the first of their kind at the federal level. FEC membership and enforcement procedures would be substantially altered.

Congressional Redistricting

H.R. 1 and S. 1 would require states to establish independent redistricting commissions that meet specified requirements regarding commission membership, procedures, and criteria for redistricting plans for U.S. House elections.

The federal requirements the bills propose would mark a major change in U.S. House redistricting. Currently, the federal government plays a limited role in congressional redistricting, primarily by, for example, enforcing relevant portions of the Voting Rights Act (VRA). If the legislation were enacted, states would retain responsibility for the redistricting process, but federal law would substantially affect how they do so.

Election Administration and Security

Major election administration provisions would (1) require states to adopt certain policies, such as using paper ballots, offering early and no-excuse mail voting, accepting sworn written statements to satisfy voter identification requirements, and establishing contingency plans for conducting elections during certain emergencies; and (2)

authorize or reauthorize election administration grant programs, including for absentee ballot tracking programs, voting and registration access for individuals with disabilities, and poll worker recruitment and training.

Major election security provisions would (1) authorize funding to replace voting systems and improve voting system security, implement risk-limiting audits, and research election infrastructure improvements; (2) codify the designation of election infrastructure as critical infrastructure; and (3) direct or authorize federal agencies to conduct activities related to election security, including analyzing the effects of risk-limiting audits, providing election officials with security-related information and assistance, establishing an election security bug bounty program, and issuing election cybersecurity guidelines and a national strategy to protect democratic institutions. The bills also would revise certain criminal provisions concerning electoral participation and voter information. Many of these provisions would amend the Help America Vote Act (HAVA) or the Homeland Security Act (HSA).

Provisions throughout the bills generally apply to federal elections. Therefore, if the legislation were enacted, states could choose not to adopt such federal requirements for state and local elections. States and localities might nonetheless determine that it is impractical to maintain differing federal and nonfederal processes for election administration and election security.

Voter Registration

Voter registration provisions would create several requirements for states regarding how individuals can register to vote or update their registration information for federal elections, including (1) online voter registration applications; (2) same-day voter registration on Election Day and during early voting; and (3) automatic voter registration through the use of contributing agency records. The legislation also contains additional criteria for states regarding voter registration database maintenance and security. Most of this language would amend the National Voter Registration Act (NVRA) or HAVA. States would remain responsible for registration under these provisions; some provisions could substantially affect the ways in which they do so.

Ethics and Lobbying

Ethics provisions generally would amend current conflict of interest, revolving door, and financial disclosure requirements and administration. Major provisions would (1) reauthorize the Office of Government Ethics (OGE), provide it investigative authority, and formalize its role in approving agency conflict of interest mitigation efforts; (2) require the issuance of a code of conduct for federal Justices and judges; (3) address presidential and vice presidential conflict of interest and financial disclosure and presidential transition team ethics; (4) codify executive order ethics pledge provisions and extend revolving door restrictions for executive branch personnel; and (5) amend the Congressional Accountability Act (CAA) and House rules to address aspects of congressional ethics.

Lobbying provisions would amend the Foreign Agents Registration Act (FARA) to provide dedicated investigative and enforcement authority to the Department of Justice, establish civil penalties, and require the disclosure of foreign gifts. The legislation also would amend the Lobbying Disclosure Act (LDA) to revise the definition of lobbying activities and lobbying contact to include legislative, political, and strategic counseling services in support of lobbying.

The legislation's ethics and lobbying provisions have some overlap with its campaign finance provisions, but are regulated by separate federal statutes. In addition to expanded disclosure requirements, the bills would broaden the kinds of activities, and perhaps the people, subject to ethics or lobbying statutes.

Selected CRS Products

Several written products, some of which are listed below, provide additional analysis of related topics. In addition, congressional requesters may contact the authors of this In Focus for a summary of recent versions of H.R. 1 and S. 1.

CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett

CRS Report R44974, *Ethics Pledges and Other Executive Branch Appointee Restrictions Since 1993: Historical Perspective, Current Practices, and Options for Change*, by Jacob R. Straus

CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett

CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker

CRS Report R46146, *Campaign and Election Security Policy: Overview and Recent Developments for Congress*, coordinated by R. Sam Garrett

CRS Report R46406, *Voter Registration: Recent Developments and Issues for Congress*, by Sarah J. Eckman

CRS Report R46565, *Federal Election Results: Frequently Asked Questions*, by Sarah J. Eckman, R. Sam Garrett, and Karen L. Shanton

CRS Report R46646, *Election Administration: Federal Grant Funding for States and Localities*, by Karen L. Shanton

CRS Report RL34377, *Lobbying Registration and Disclosure: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus

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