

## 28TH AMENDMENT (RC.1)

### *Principled Power & Politics; Proportional Influence & Authority*

#### SECTION 1

##### *Free & Fair Public Elections; Equal Access & Influence*

CLAUSE 1. To ensure free and fair elections, Congress and the States shall regulate and set reasonable limits on the raising and spending of money by candidates and others so that no person or entity gains unreasonable access to, or influence upon any public election, and so that all citizens have equal opportunity to influence such elections.<sup>1</sup>

CLAUSE 2. Contributions to balloted campaigns, or organizations that substantially advocate for specific balloted campaigns<sup>2</sup>, shall be limited to persons eligible to vote in that campaign's relevant election.<sup>3</sup>

CLAUSE 3. This section shall not be construed to grant Congress or the States the power to abridge the freedom of speech, or the press.<sup>4</sup>

#### SECTION 2

##### *Autonomous & Accountable Legislative Processes; Full Transparency & Integrity*

CLAUSE 1. To balance autonomy and accountability in the legislative branch, Congress and the States shall regulate and set reasonable limits on lobbying efforts by former public officials and employees so that no person or entity gains unreasonable access to, or influence upon any legislative or quasi-legislative process, and so that such processes are equally accountable to all citizens.<sup>5</sup>

---

<sup>1</sup> This power is intended to remove the limitation formerly imposed upon Congress by *Citizens United v. Federal Election Commission*, 558 U.S. 310, in which campaign finance reform was determined to be a violation of free speech as guaranteed under the First Amendment.

<sup>2</sup> Balloted campaigns include, but are not limited to: (i) candidates for public office; (ii) initiatives; (iii) referendums; and (iv) recalls. The term "substantial advocacy" permits courts to expand the definition of "express advocacy" (see *Buckley v. Valeo*) for balloted campaigns, so long as such determinations are accompanied, in writing, by demonstrable reasoned elaboration and empathic consideration.

<sup>3</sup> The limitations inherently prohibited from unduly influencing public elections include, but are not limited to: (i) artificial entities, such as for-profit corporations; (ii) citizens falling outside of the jurisdiction of a given election; and (iii) foreign influence. This both ensures that elected officials truly represent the people that elected them, and ends wasteful campaign fundraising arms races. By reducing the importance of money in politics, elected officials can consequently focus more of their time, energy, and resources on being effective policymakers and advocates for their constituents.

<sup>4</sup> However, the reach of such speech, or press, may be limited in furtherance of Clause 1 of this section, subject to an affordance of due process.

<sup>5</sup> This would address the "revolving door" problem, by which people who work in government go back and forth between the public and private sector. They use their connections and knowledge to get jobs in the private sector, often as lobbyists or consultants. This can create a conflict of interest, because they may be more concerned with advancing their own career than with serving the public.

CLAUSE 2. Public officials and public employees shall be prohibited from using their public office to disproportionately benefit themselves, their spouse, children, employer or entities with which they have certain business interests, while in office, during employment, or henceforth.<sup>6</sup>

CLAUSE 3. Legislative and quasi-legislative processes shall include secret ballot procedures, when appropriate, as shall be defined in parliamentary rules established by Congress and the States so that both accountability and autonomy are balanced in checking against disproportionate influence by individual persons, entities, or groups of persons or entities.<sup>7</sup>

CLAUSE 4. All impeachment, removal, and recall proceedings shall be conducted as secret ballots, overseen by the Supreme Court for purposes of legitimacy, so that autonomy is protected in checking against public abandonment of rationality.<sup>8</sup>

### **SECTION 3**

#### *Apolitical & Rotational Judicial System; Limited Terms & Tenure*

CLAUSE 1. To ensure a depoliticized and rotational judicial system, Congress and the States shall regulate and set reasonable limits on the term and tenure of judicial positions, except as defined in Clause 3, so that no individual person obtains unreasonable access to, or influence upon, the quantity and longevity of decisions that establish lasting precedent.<sup>9</sup>

CLAUSE 2. The role of the Supreme Court shall be limited to resolving disputes that implicate Constitutional rights, powers, or other nonpolitical enumerations thereof.<sup>10</sup>

CLAUSE 3. The tenure of the Justices of the Supreme Court shall be limited to a single term of 18 years in which one Justice is rotated out every 2 non-election years.<sup>11</sup>

### **SECTION 4**

#### *Conditional & Circumstantial Executive Authority; Provisional Powers & Elasticity*

---

<sup>6</sup> This addresses the reverse revolving door by which officials in the public sector are rewarded for their loyalty to private sector interests after the fact, with lucrative and powerful in-house positions. For example, an FDA official who approved a special label indicating that a specific brand's opioid was "less likely to be abused" soon after left the FDA and received an in-house role at that same brand.

<sup>7</sup> For example, Congress may determine, as necessary when members may not vote their conscience due to fear of violent or punitive retaliation, that autonomy must prevail over transparency. In addition, the principle of autonomy may be determined to prevail over transparency while crafting and amending legislation in order to prevent the accumulation of pork, insertion of loopholes, policy dilution and quid pro quo logrolling, but that transparency should prevail over autonomy for final votes on passage brought before the entire chamber. Congress may also determine that the judiciary shall oversee the counting of secret ballots to ensure integrity and public legitimacy.

<sup>8</sup> This clause is intended to provide Congress with autonomy from local constituent reprimand in times necessary to protect Constitutional norms from authoritarian personalities enabled by majoritarian tyranny.

<sup>9</sup> This provides Congress and the States with the power to define term limits, or other limitations, upon federal or state judicial positions other than the Supreme Court, which is explicitly defined in Clause 3.

<sup>10</sup> This clause expresses a strict interpretation of the political question doctrine.

<sup>11</sup> Non-election years shall be interpreted to include years in which "off-cycle" special elections occur.

CLAUSE 1. To ensure conditional and circumstantial executive powers, Congress and the States shall regulate and set reasonable limits on the elastic<sup>12</sup> powers of executive offices and agencies so that no administration, or series of administrations, gains an unreasonable concentration of power and irreversible centralized authority disproportionate to the necessary and proper capabilities required in order to faithfully execute the laws.<sup>13</sup>

CLAUSE 2. Congress and the States shall have the power to delegate legislative processes to executive agencies or other commissions<sup>14</sup> that retain independence<sup>15</sup> from the Office of the President or the Offices of State Governors, or to those quasi-legislative agencies.

CLAUSE 3. This section shall not be construed to grant Congress or the States the power to abridge the unified military power granted by the Commander in Chief Clause,<sup>16</sup> however, Congress and the States shall limit the pardon power in furtherance of Clause 1 of this section, and may limit executive control of specified administrative agencies in furtherance of Clause 2.

---

<sup>12</sup> The term “elastic” is intended to mandate that circumstantial limitations be defined (conditional powers) by Congress for any new provision of power, in contrast to the expansive function (unconditional powers) of the elastic principle implied by the “necessary and proper” clause that governs the growth of Congressional powers over time (see Article I, Section 8, Clause 18).

<sup>13</sup> If there is a mechanism in place that automatically begins to reverse any expansions of executive power, then there is less risk of an abuse of power occurring. Additionally, this system may be more palatable to those who are leery of giving the executive branch too much power, as it provides a built-in check on their authority.

<sup>14</sup> This power is intended to remove the limitation formerly imposed upon Congress by the nondelegation doctrine.

<sup>15</sup> This allowance of independence is intended to check the strength of a unitary executive.

<sup>16</sup> This establishes a clear chain of command and ensures that military decisions are made in a timely and efficient manner, ensuring that the armed forces are used in a way that is consistent with the country's national security interests.