

## SUPREME COURT DECISIONS

Mr. LEAHY. Mr. President, earlier this month, the U.S. Supreme Court once again chose to dismantle campaign finance laws which had protected hard-working Americans for decades. In *McCutcheon v. Federal Election Commission*, a sharply divided Court held that aggregate limits on campaign contributions are a violation of the First Amendment. These were the same five justices who, just 4 years ago, reversed a century of precedent in *Citizens United* by declaring that corporations have a First Amendment right to endlessly finance and influence elections. Rather than increasing access and encouraging participation for all Americans, this Court continues to rule against our democratic principles and in favor of moneyed interests.

The Court's recent dismantling of campaign finance laws has been devastating. As Justice Breyer warned in his dissent:

Taken together with *Citizens United*, [the *McCutcheon*] decision eviscerates our Nation's campaign finance laws, leaving a remnant incapable of dealing with the grave problems of democratic legitimacy that those laws were intended to resolve.

I could not agree with him more.

Nobody who has watched our elections or even tried to watch television since the *Citizens United* decision can deny the enormous impact that decision has had on our political process. In small states like Vermont, that decision coupled with *McCutcheon* poses an even greater risk. I have heard time and again from Vermonters concerned about these toxic effects, and I agree that something must be done. That is why I have cosponsored the DISCLOSE Act since 2010 to restore transparency and accountability to campaign finance laws, and that is why we have held multiple hearings in the Judiciary Committee on the impact of these alarming Supreme Court decisions. Earlier this month I announced that the Judiciary Committee would have another hearing on this issue. That hearing will take place in June. We will hear testimony from individuals who have witnessed the real impact these harmful decisions have had on Americans seeking to exercise their right to vote and to be heard.

The Judiciary Committee's hearing will also take place close to the anniversary of yet another devastating Supreme Court decision. Last June, as the Nation prepared to celebrate the 50th Anniversary of the March on Washington where Dr. Martin Luther King delivered his historic "I Have a Dream" speech, the same narrow majority of the Supreme Court struck down the coverage provision of the Voting Rights Act and effectively gutted the most successful piece of civil rights legislation in this Nation's history in *Shelby County v. Holder*.

The Voting Rights Act, including the coverage formula and Section 5, was reauthorized and signed into law by President George W. Bush in 2006, after

the Senate voted 98-0 and the House voted 390-33 in favor of the reauthorization. Yet the Court struck down a key provision of the Act despite the fact that it has worked to protect the Constitution's guarantees against racial discrimination in voting for nearly five decades. In striking down the coverage formula in the Voting Rights Act, the Court dramatically undercut Section 5's ability to protect American voters from racial discrimination in voting. The result is that many Americans who were protected by this law have now been left vulnerable to discriminatory practices and have had much greater difficulty accessing the ballot box. Along with other lawmakers, I have introduced a bipartisan and bicameral bill, S. 1945, to respond to the Court's decision and would reinvigorate the most vital protections of the Act. I hope Senate Republicans will work with me on this important effort.

This current Supreme Court's pattern of denying access to the ballot box for everyday Americans while expanding the ability of billionaires and corporations to buy elections is disturbing, to say the least. In an article by Ari Berman at *The Nation* dated April 2, the author states that "The Court's conservative majority believes that the First Amendment gives wealthy donors and powerful corporations the carte blanche to buy an election but that the Fifteenth Amendment does not give Americans the right to vote free of racial discrimination." Since the Court's ruling in *Shelby County*, eight states previously covered under Section 4 of the Voting Rights Act have since passed or implemented new voting restrictions and voters are already seeing the consequences of that lack of protection. Mr. Berman concludes that "[a] country that expands the rights of the powerful to dominate the political process but does not protect fundamental rights for all citizens doesn't sound much like a functioning democracy to me." I agree and I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

Sara Mayeux at Harvard Law School observed that the Court began its *McCutcheon* opinion by noting that "There is no right more basic in our democracy than the right to participate in electing our political leaders" yet, this same narrow majority discarded that very principle just last year when it struck down a key provision of the Voting Rights Act in *Shelby County*—a case that was much more about the right to participate in electing our political leaders than this one.

The observation is consistent with the disturbing trend exhibited by this Court in *Citizens United*, *McCutcheon*, and *Shelby County*, which is that the Court underscores and endorses the rights of corporations and billionaires to participate in our democracy, and yet dismisses that same right for the average American to participate in our elections and to vote free from discrimination.

Every American should understand how devastating these rulings are to our system of democracy. Time and again, this narrow majority of conservative Justices has substituted their own preferences for those of the duly-elected Congress, despite the Supreme Court's own precedents. This Court's disregard for Congressional findings about both the threat of corruption and the irreparable harm of racial discrimination in voting demonstrates how out of touch with reality some of the Justices have become. These sharply-divided rulings undermine the fundamental concept that our democracy is supposed to work for all Americans. I will continue to work on behalf of the American people to see that all Americans and not just a wealthy few will continue to have a right to participate in our representative democracy and to have their voices heard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From *The Nation*, Apr. 2, 2014]

THE SUPREME COURT'S IDEOLOGY: MORE MONEY, LESS VOTING

(By Ari Berman)

In the past four years, under the leadership of Chief Justice John Roberts, the Supreme Court has made it far easier to buy an election and far harder to vote in one.

First came the Court's 2010 decision in *Citizens United v. FEC*, which brought us the Super PAC era.

Then came the Court's 2013 decision in *Shelby County v. Holder*, which gutted the centerpiece of the Voting Rights Act.

Now we have *McCutcheon v. FEC*, where the Court, in yet another controversial 5-4 opinion written by Roberts, struck down the limits on how much an individual can contribute to candidates, parties and political action committees. So instead of an individual donor being allowed to give \$117,000 to campaigns, parties and PACs in an election cycle (the aggregate limit in 2012), they can now give up to \$3.5 million, Andy Kroll of Mother Jones reports.

The Court's conservative majority believes that the First Amendment gives wealthy donors and powerful corporations the carte blanche right to buy an election, but that the Fifteenth Amendment does not give Americans the right to vote free of racial discrimination.

These are not unrelated issues—the same people, like the Koch brothers, who favor unlimited secret money in US elections are the ones funding the effort to make it harder for people to vote. The net effect is an attempt to concentrate the power of the top 1 percent in the political process and to drown out the voices and votes of everyone else.

Consider these stats from Demos on the impact of *Citizens United* in the 2012 election:

The top thirty-two Super PAC donors, giving an average of \$9.9 million each, matched the \$313.0 million that President Obama and Mitt Romney raised from all of their small donors combined—that's at least 3.7 million people giving less than \$200 each.

Nearly 60 percent of Super PAC funding came from just 159 donors contributing at least \$1 million. More than 93 percent of the money Super PACs raised came in contributions of at least \$10,000—from just 3,318 donors, or the equivalent of 0.0011 percent of the US population.

It would take 322,000 average-earning American families giving an equivalent

share of their net worth to match the Adelsons' \$91.8 million in Super PAC contributions. That trend is only going to get worse in the wake of the McCutcheon decision.

Now consider what's happened since Shelby County: eight states previously covered under Section 4 of the Voting Rights Act have passed or implemented new voting restrictions (Alabama, Arizona, Florida, Mississippi, Texas, Virginia, South Carolina and North Carolina).

That has had a ripple effect elsewhere. According to The New York Times, "nine states [under GOP control] have passed measures making it harder to vote since the beginning of 2013."

A country that expands the rights of the powerful to dominate the political process but does not protect fundamental rights for all citizens doesn't sound much like a functioning democracy to me.

### CBO COST ESTIMATES

Mr. WYDEN. Mr. President, on Monday, the Finance Committee reported S. 2260, the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014, and S. 2261, the Tax Technical Corrections Act of 2014.

At the time that the bills and accompanying reports were filed, the statements of the Congressional Budget Office, required under section 402 of the Budget Act, were not yet available, and, in each case, the committee report indicated that the statements would be provided separately.

I ask unanimous consent to have the CBO statements printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, April 29, 2014.

Hon. RON WYDEN,  
Chairman, Committee on Finance,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost

estimate for the Tax Technical Corrections Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,  
DOUGLAS W. ELMENDORF,  
Director.

Enclosure.

### Tax Technical Corrections Act of 2014

The Tax Technical Corrections Act of 2014 would make various clerical corrections, clarifications, and conforming and other technical changes to the Internal Revenue Code. Those provisions that the bill would modify were originally enacted in a variety of laws, including the American Taxpayer Relief Act of 2012, the American Recovery and Reinvestment Act of 2009, and the American Jobs Creation Act of 2004. In addition, the bill would repeal many elements of the Internal Revenue Code that are not used in computing current taxes and thus are obsolete.

The staff of the Joint Committee on Taxation (JCT) estimates that the bill would have no budgetary effect. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, April 29, 2014.

Hon. RON WYDEN,  
Chairman, Committee on Finance,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Barbara Edwards.

Sincerely,  
DOUGLAS W. ELMENDORF,  
Director.

Enclosure.

### Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

Summary: The Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act would reinstate and extend certain expired and expiring tax provisions through December 31, 2015; most of the provisions expired on December 31, 2013, and would be retroactively reinstated, but a few are scheduled to expire on December 31, 2014. In some cases those provisions would be extended and amended. The bill also would make several additional changes to tax law.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting the bill would reduce revenues by about \$81.3 billion over the 2014–2024 period. A small portion of those estimated reductions in revenues, less than \$0.1 billion over the period from 2014 to 2024, results from off-budget (social security) revenues. CBO and JCT also estimate that the bill would increase direct spending by \$2.8 billion over the 2014–2024 period.

On net, JCT and CBO estimate that enacting the bill would increase deficits by about \$84.1 billion over the 2014–2024 period. Pay-as-you-go procedures apply because enacting the legislation would affect revenues and direct spending.

JCT has determined that the provisions of the bill contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impacts of the bill are shown in the following table.

| By fiscal year, in billions of dollars—   |       |        |       |       |       |       |      |      |      |      |      |           |           |
|---|-------|--------|-------|-------|-------|-------|------|------|------|------|------|-----------|-----------|
|   | 2014  | 2015   | 2016  | 2017  | 2018  | 2019  | 2020 | 2021 | 2022 | 2023 | 2024 | 2014–2019 | 2014–2024 |
| <b>CHANGES IN REVENUES</b>  |       |        |       |       |       |       |      |      |      |      |      |           |           |
| Individual Tax Extensions .....   | –1.0  | –8.7   | –6.5  | –3.3  | –0.1  | –0.1  | –0.1 | –0.1 | –0.1 | –0.1 | –0.1 | –16.6     | –17.0     |
| Business Tax Extensions .....   | –21.8 | –100.5 | –8.1  | 32.4  | 20.5  | 14.4  | 8.5  | 3.6  | 1.4  | –0.2 | –0.6 | –63.1     | –50.4     |
| Energy Tax Extensions .....   | –2.0  | –3.5   | –1.6  | –0.5  | –1.0  | –1.4  | –1.7 | –1.8 | –1.9 | –2.0 | –2.1 | –10.1     | –19.6     |
| Debt Collection Contracts .....   | *     | 0.1    | 0.4   | 0.5   | 0.5   | 0.5   | 0.5  | 0.5  | 0.6  | 0.6  | 0.6  | 1.9       | 4.8       |
| Other Provisions .....  | *     | *      | *     | 0.1   | 0.1   | 0.1   | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.3       | 1.0       |
| Total Revenues .....  | –24.8 | –112.6 | –15.8 | 32.0  | 20.0  | 13.6  | 7.4  | 2.4  | 0.1  | –1.6 | –2.1 | –87.6     | –81.3     |
| On-budget .....   | –24.8 | –112.6 | –15.8 | 32.0  | 20.0  | 13.6  | 7.4  | 2.4  | 0.1  | –1.6 | –2.1 | –87.5     | –81.3     |
| Off-budget .....  | *     | *      | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | –0.1      | –0.1      |
| <b>CHANGES IN DIRECT SPENDING</b>   |       |        |       |       |       |       |      |      |      |      |      |           |           |
| Debt Collection Contracts .....   | *     | 0.1    | 0.2   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.0       | 2.4       |
| Estimated Budget Authority .....  | *     | 0.1    | 0.2   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.0       | 2.4       |
| Estimated Outlays .....   | *     | 0.1    | 0.2   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.0       | 2.4       |
| Rum Excise Tax Payments .....   | 0.1   | 0.2    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.3       | 0.3       |
| Estimated Budget Authority .....  | 0.1   | 0.2    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.3       | 0.3       |
| Estimated Outlays .....   | 0.1   | 0.2    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.3       | 0.3       |
| Health Coverage Credit .....  | *     | 0.1    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.1       | 0.1       |
| Estimated Budget Authority .....  | *     | 0.1    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.1       | 0.1       |
| Estimated Outlays .....   | *     | 0.1    | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.1       | 0.1       |
| Child Tax Credit .....  | 0     | 0      | *     | *     | *     | *     | *    | *    | *    | *    | *    | *         | *         |
| Estimated Budget Authority .....  | 0     | 0      | *     | *     | *     | *     | *    | *    | *    | *    | *    | *         | *         |
| Estimated Outlays .....   | 0     | 0      | *     | *     | *     | *     | *    | *    | *    | *    | *    | *         | *         |
| Total Direct Spending .....   | 0.2   | 0.3    | 0.3   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.4       | 2.8       |
| Estimated Budget Authority .....  | 0.2   | 0.3    | 0.3   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.4       | 2.8       |
| Estimated Outlays .....   | 0.2   | 0.3    | 0.3   | 0.2   | 0.2   | 0.2   | 0.3  | 0.3  | 0.3  | 0.3  | 0.3  | 1.4       | 2.8       |
| <b>NET INCREASE OR DECREASE (–) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES</b> |       |        |       |       |       |       |      |      |      |      |      |           |           |
| Effect on Deficits .....  | 25.0  | 112.9  | 16.0  | –31.8 | –19.8 | –13.3 | –7.1 | –2.1 | 0.2  | 1.9  | 2.4  | 89.0      | 84.1      |
| On-budget .....   | 25.0  | 112.9  | 16.0  | –31.8 | –19.8 | –13.3 | –7.1 | –2.1 | 0.2  | 1.9  | 2.4  | 88.9      | 84.1      |
| Off-budget .....  | *     | *      | *     | 0     | 0     | 0     | 0    | 0    | 0    | 0    | 0    | 0.1       | 0.1       |

Sources: Congressional Budget Office and staff of the Joint Committee on Taxation.

Note: Details may not add to totals because of rounding; \* = between –\$50 million and \$50 million.