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Feb. 13, 2019

The Hon. Zoe Lofgren
The Hon. Rodney Davis
Committee on House Administration
1316 Longworth House Office Bldg.
Washington, D.C. 20515

Public Citizen Statement for the Record in Support of H.R. 1

Dear Members of the Committee:

On behalf of Public Citizen's 500,000 members and supporters, we write to express our wholehearted support for the sweeping ethics, campaign finance and voting rights reforms offered by the For the People Act (H.R. 1), which you are moving through the hearing process in your committee. We also write as a part of the 130 organization-strong Declaration for American Democracy coalition that is supporting H.R. 1.

In November, the American people went to the polls and resoundingly cast their ballots in support of candidates and officeholders committed to cleaning up corruption and holding government accountable. H.R. 1 embodies these principles and constitutes your promise to the nation to ensure that public officials work for the people.

This sweeping legislative package addresses three key buckets of reforms which are essential to make our government work effectively and fairly. The legislation provides:

- Comprehensive campaign finance reforms that would end dark money and reduce the alarming influence of special interest and corporate money over our elections.
- Desperately-needed governmental ethics reforms to slow the revolving door between public service and powerful business interests, and strengthening oversight and enforcement of ethics laws and rules.
- Voting and electoral reforms that would end gerrymandering and reaffirm the principle of one person, one vote.

Within each of these three buckets H.R. 1 proposes numerous critical reforms that get to the heart of the corruption problems and, if implemented, will go a long way toward restoring public confidence in our federal government. Each and every one of these proposals are significant remedies to what ails this nation and are endorsed by Public Citizen.

We want to highlight the significance of just a couple of the many constructive reforms. Today’s hearing will focus on voter registration modernization, election security, campaign finance disclosure and reform, protecting the integrity of elections, and fixing broken ethics laws, and we focus our remarks especially on the campaign finance issues, including a dysfunctional Federal Election Commission (FEC), dark money and foreign influence in elections, and small-donor public financing of campaigns

1. Enforcement of Campaign Finance Laws: the Dysfunctional Federal Election Commission.

There is no doubt whatsoever that the Federal Election Commission is broken.

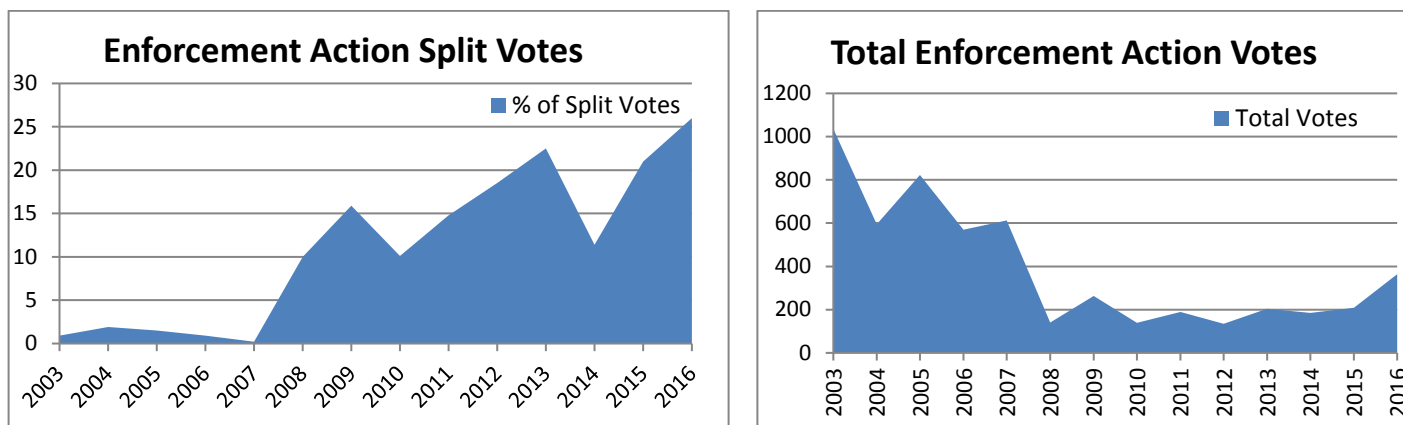
The agency in charge of enforcing our nation’s campaign finance laws is moribund by ideological stalemate, leaving the laws largely unenforced. It is broken not because of its staff, which is hardworking and professional. It is broken because of its leadership; the six commissioners – three Democrats and three Republicans – routinely deadlock 3-3 along party lines, resulting in a “no decision” on whether to enforce the law in any particular case. No decision means no enforcement.

In just the last few years, a sharply pervasive partisan split on the Federal Election Commission (FEC) has largely prevented the agency from fulfilling its mission. In both numbers of actions taken and immobilizing deadlocked votes, the FEC is showing a dramatic and uncharacteristic inability to perform its duties more or less in all categories – enforcement, audits, regulations and advisory opinions.

One of the most critical functions of the FEC is to enforce the Federal Election Campaign Act (FECA), nation’s campaign finance law, but today’s agency is falling desperately short in this mission.

Split Votes on Proposed Enforcement Actions

Year	Split Votes	Total Votes	% of Split Votes
2003	9	1036	0.9
2004	11	594	1.9
2005	12	823	1.5
2006	5	569	0.9
2007	2	612	0.2
2008	14	140	10
2009	42	263	15.9
2010	14	139	10.1
2011	28	189	14.8
2012	25	135	18.5
2013	46	204	22.5
2014	21	185	11.4
2015	42	209	21
2016	95	364	26
Totals	366	5462	6.7%



Simply put, when it comes to money in politics, there is no cop on the beat – and the major political players know that almost anything goes.

H.R 1 proposes to remedy the dysfunction when it comes to gridlocks by reorganizing the Federal Election Commission into a five-member agency, with no more than two members belonging to the same political party. The selection of the Chair of the Commission goes through special scrutiny to help ensure nonpartisanship. This is precisely the type of restructuring needed to establish an equitable and effective enforcement agency of our campaign finance laws.

2. Enhance Transparency of Money in Politics.

Until fairly recently, the Federal Election Commission (FEC) largely fulfilled its mission of ensuring that campaign spending as well as the sources of funds for those expenditures were disclosed to the public. In terms of both independent expenditures and electioneering communications – the types of campaign expenditures by outside groups – there was nearly full disclosure of the campaign spending and donors behind this spending.

But this disclosure regime quickly began to unravel following the 2007 Wisconsin Right to Life decision, and then collapsed under the weight of the 2010 Citizens United decision. Shortly after Wisconsin Right to Life, which permitted independent groups to broadcast “issue-oriented” messages near elections funded with corporate or union money, the Federal Election Commission (FEC) issued rules requiring disclosure only of donors who contribute funds “for the purpose of furthering electioneering communications.”¹

But the FEC reasoned that since corporations and labor unions could make electioneering communications, they should not be required to disclose the names of everyone who provides them with \$1,000 or more for purposes unrelated to electioneering. The agency added a separate section to that effect, requiring a corporation or labor organization that makes electioneering communications to disclose “the name and address of each person who made a donation aggregating \$1,000 or more to the corporation or labor organization, aggregating since the first

¹ 11 CFR 104.20(c)(9).

day of the preceding calendar year, which was made for the purpose of furthering electioneering communications.”

This language has recently been interpreted by a growing number of outside groups to mean that only those donors who specifically “ earmark” funds for an electioneering communication need be disclosed. The same “ earmarking” loophole was shortly thereafter also applied to independent expenditures by outside groups. Since almost no one earmarks their campaign contributions, a new era of “dark money” was born.

After nearly 100 percent of groups revealed the donors funding their electioneering communications in the 2004 and 2006 election cycles, fewer than 50 percent did so in 2008. A comparable collapse in disclosure of the sources of funds behind independent expenditures soon followed.²

Additionally, loopholes in our campaign finance laws have made it possible for that dark money to come from foreign nationals or even foreign governments that may be looking to disrupt American democracy and tip the scales in their favor. Disclosure of the true sources of outside campaign spending – whether it’s from wealthy individuals, corporations or foreign entities – is essential to a functioning democracy that serves all Americans equally.

H.R. 1 closes many of the current loopholes that allow dark money and foreign influence to remain hidden and brings much-needed transparency to the way in which money flows into our elections. The legislation would require organizations that spend more than a specified threshold on politics to disclose the donors of their political funds, It also would impose stricter disclosure requirements on ads that run near elections and appear to endorse a specific candidate, stop donors from hiding behind shell organizations and forbid corporations that are significantly controlled by a foreign principal or government from spending on U.S. elections, extend the disclosure requirements to social media and repeal policy “riders” placed into appropriations packages preventing the SEC, IRS, and executive branch from dealing with disclosure of public companies, nonprofits, and contractors, respectively.

3. Remove Special Interest Money from Elections.

Without a doubt, the gravest problem to our political system is the corrosive impact of corporate and special interest money in elections. Public officials tend to rely on this money to win elections, and the money frequently comes with strings attached. Those of us who cannot afford to make large campaign contributions – which is nearly all of us – more often than not find ourselves left on the roadside when elected officials pass laws and determine public policy. Public financing of elections is the single most effective legislative remedy against unlimited corporate spending. The public financing plans now under consideration in H.R. 1 have been designed specifically to overcome the barriers imposed by the courts on campaign finance laws, as well as to embrace the new small donor phenomenon spreading across the nation. H.R. 1

² Public Citizen, “Fading Disclosure” (Sep. 15, 2010), available at: <https://www.citizen.org/sites/default/files/disclosure-report-final.pdf>

would create a small-donor public financing system for both presidential and congressional elections with the following features:

- Qualified candidates are provided with ample public funding, giving candidates the resources necessary to respond to attacks from corporate spenders.
- Participating candidates are not bound by aggregate spending ceilings, which enables those who are the targets of excessive corporate spending to continue raising funds in small donations and to spend those funds without limit.
- Small donations are matched multiple times with public dollars, making small donors very important players in financing campaigns.

The public financing programs offered in H.R. 1 comprise the single most important steps that can be taken to clean up politics and make government accountable to the people. The costs associated with these programs are not very significant, yet the benefits are enormous.

Conclusion

Our comments cover just a few of the major improvements offered by H.R. 1 to the broken system of money in politics. The sweeping legislation provides many more sorely-needed reforms, not just in campaign finance but in the areas of governmental ethics and voting rights.

H.R. 1 is the comprehensive government reform that Americans are demanding.

In 2016, many voters believed in the campaign pledge to “drain the swamp,” only to be disappointed by the growing power of wealthy special interests over all levers of government in Washington DC. And voters responded in 2018.

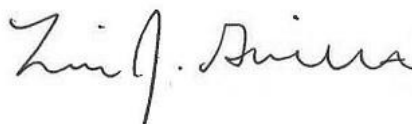
These key issues took front and center of the political dialogue in the last election, and will once again emerge as the most important factors affecting voting choices in the 2020 elections. A new class of representatives has been ushered into the 116th Congress upon the promise of making the federal government accountable and transparent to the public.

Carry through with that promise by doing everything you can to advance H.R. 1 into law.

Sincerely,



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