



The For the People Act: How Key H.R. 1 Provisions Would Fix Democracy Problems

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ELECTION ACCESS

The Problem:

In [*Husted v. A.P.R.I.*](#), the U.S. Supreme Court upheld an Ohio voter purge practice that cancels voters' registration when voters choose not to vote. Ohio purged voters who did not vote for six years and failed to return a mailed notice based on the faulty premise that those voters had likely moved. In fact, the evidence showed these voters had, by and large, not moved and often found themselves unable to cast a ballot when they appeared at their polling locations. The Supreme Court held that Ohio's voter purge process was lawful because of ambiguous language Congress included in the National Voter Registration Act of 1993 and the Help America Vote Act of 2002. This June 2018 decision gave vote suppressors a greenlight to implement "use it or lose it" voter purging practices across the country that disproportionately impact low-income communities and communities of color. H.R. 1 includes provisions that would roll back the Supreme Court's ruling in *Husted* and outlaw these practices.

Since *Husted*, examples of aggressive voter purge efforts abound. In September 2020, the ACLU of Georgia discovered [198,351 Georgia voters](#) who were purged after the State incorrectly concluded they no longer lived at the addresses on their voter registration. After conducting a name-by-name review of the voters purged, the study found that Georgia's current voter purge process has a staggering 63.3% error rate. In 2019, [Wisconsin](#) mailed letters to approximately 234,000 voters asking them to update their voter registration if they have moved or verify that they still live at the same address. After the state issued its plan to verify voters' current addresses over a period of up to 24 months, the Wisconsin Institute for Law and Liberty sued, seeking the immediate purge of any voter who did not return the letter within 30 days. The Wisconsin Supreme Court has yet to issue its decision but it could lead to even more aggressive voter purge activity in the state.

At least [17 million voters](#) were purged nationwide between the presidential election in 2016 and the midterm elections in 2018. Since *Shelby County v. Holder*, the Supreme Court case that invalidated Section 5 of the Voting Rights Act of 1965, voter purge rates in counties previously covered under Section 5 rapidly accelerated. Between 2016 and 2018, the median purge rate in these jurisdictions—no longer subject to federal oversight from the Department of Justice—was 40 percent higher than the rate in jurisdictions that were not previously covered.

The [evidence](#) is clear. Aggressive voter purges not only disenfranchise Americans but are highly error-prone and discriminatory. In 2013, Virginia attempted to purge nearly 39,000 voters using an interstate cross-check program. Eligible voters were incorrectly

flagged as having moved out of Virginia when they had actually moved to Virginia. The purge error rate in some counties was as high as 17 percent. And in 2015, Hancock County, Georgia's majority-white Board of Elections used challenge procedures just weeks before a municipal election to challenge the registration of 20 percent of a town's electorate, the majority of whom were Black. Some of the challenges were based on second-hand, false allegations that a voter had moved out of the county. The county only agreed to reinstate the wrongfully purged voters' registration after being sued.

The H.R. 1 Fix

Voters should not be threatened with removal from the voter registration rolls because of baseless voter purges. H.R. 1 includes several provisions that will protect voters from this threat.

Title I, Subtitle A, Part 3 of H.R. 1 provides for [same day voter registration](#). It would require every state to offer voters in federal elections the opportunity to register to vote on the day of the election. Same day registration protects voters who have been wrongfully purged from the voter registration rolls by allowing them to register immediately before casting their vote. 20 states and the District of Columbia already offer same day registration.

Title I, Subtitle A, Part 4 of H.R. 1 ensures that states maintain their voter registration lists through trustworthy and accurate interstate data sharing. A shoddy interstate cross-check championed by former Kansas Secretary of State Kris Kobach and used by states in the past was [shown to fail](#) most of the time. This provision of H.R. 1 would require states to obtain a voter's full name, date of birth, and a unique personal identification number during any interstate cross-check or, in the alternative, official documentation that the voter is no longer a resident of the state, before purging the voter from the rolls. It would also prohibit states from conducting interstate cross-checks within 6 months of an election, instead of within 3 months of an election as federal law currently states.

Title I, Subtitle C of H.R. 1 bans several harmful voter purging practices, often referred to as "[voter caging](#):"

- It prohibits election officials from relying on lists of voters created by sending non-forwardable mail to selected registered voters and identifying those whose mail is returned as undeliverable to remove registrants from the voter registration rolls. This is not a reliable method of list maintenance and has a dark history as a tool of racial discrimination.
- It bans the use of unverified match lists, which are produced by matching the

names of registrants or registration applicants to the names of people who are ineligible to vote without using any sufficient specific identifiable information. Absent such identifying information, these match lists are hopelessly error prone. Rather, election officials can only rely on match lists that include signatures, photographs, or unique personal identification numbers that ensure accuracy.

- It limits challenges to voter eligibility from individuals who are not election officials to those based on personal knowledge and supported by an attestation, limits challenges within 10 days of an election, and establishes criminal penalties for malicious challenges to eligible voters' registration.

Title II, Subtitle F of H.R. 1 directly addresses *Husted* by clarifying that a person's failure to vote, failure to respond to a mailed notice, or failure to take any other action in relation to voting is not grounds for their removal from registration rolls. Instead, this provision requires states to verify registered voters' ineligibility to vote using "objective and reliable evidence" before purging them from the rolls. It also requires states to send voters notice of their removal within 48 hours.

H.R. 1 would ensure that voters can always register on Election Day and are not wrongfully purged from the voter registration rolls when they sit out an election cycle or fail to respond to a piece of mail.

VOTING BY MAIL

The Problem:

More voters cast their ballots by mail in the 2020 elections than ever before. Even prior to the COVID-19 pandemic, vote by mail was an increasingly popular option chosen by Americans to cast their ballots. And as a result of the global health emergency, vote by mail skyrocketed. Thus, millions of Americans experienced the benefits of voting by mail for the first time. Turnout in 2020 was the highest in a presidential election in a century. Despite this success, not all states provide their citizens equal access to vote by mail and the efficacy and usability of vote by mail procedures varies widely across the states.

Voters deserve access to a range of accessible methods of casting their ballots and confidence those ballots will be counted. For many voters, vote by mail is the most accessible method. In-person voting—which often requires voters to appear at their polling locations during limited hours—poses particular obstacles for working people balancing multiple jobs and daycare, students, those with limited access to transportation, and people with disabilities. These difficulties are exacerbated by long wait times for in-person voting. And such wait times do not fall evenly on all voters: a recent [2020 study](#) found that voters in predominantly Black neighborhoods were 74 percent more likely than to wait more than 30 minutes at their polling location than those in white neighborhoods. Access to a secure and well-functioning vote by mail option is one means of mitigating these disparities and ensuring every American can cast their ballot without difficulty.

But [one third of states](#)—from New York and Connecticut to Mississippi and Louisiana—continue restricting vote by mail access to limited categories of voters. In the [2020 election](#), many states which typically require an excuse to vote by mail—including Alabama, Arkansas, Kentucky, and Missouri, among others—allowed many or all voters to vote absentee using COVID-19 as an excuse. Thus, millions of voters who enjoyed the right to vote by mail in the 2020 election might soon lose that right for future elections absent federal legislation.

Moreover, vote by mail procedures vary widely from state to state despite clear best practices that lower rejection rates and improve usability. Some obstacles to effective vote by mail systems include:

- Burdensome notarization or witness signature requirements;
- Lack of prepaid postage on absentee ballots in a majority of states (creating a de facto poll tax for vote by mail);

- Restricted means of returning ballots (e.g. limits on drop boxes, prohibition on in-person return at polling locations); and
- Election Day receipt deadline instead of postmark deadlines that leave voters at the mercy of the Postal Service.

Finally, absentee ballot verification procedures lack standardization. While most states rely on signature verification, until recently, many states lacked notice and cure opportunities for voters whose ballots were identified as having “mismatched” signatures. Litigation and advocacy in 2018 and 2020 [narrowed](#) the number of states that fail to give notice to voters to a handful of states (namely Tennessee, Texas, Arkansas, and South Dakota). But nonetheless, they remain. Among states that give voters notice and an opportunity to cure their ballots, the robustness of those procedures varies significantly leaving many voters without meaningful cure options.

These obstacles to an efficient and reliable vote by mail process often disproportionately impact young voters, voters of color, and voters with disabilities. For example, Election Day receipt deadlines for mail ballots particularly burden voters on reservations, which have less reliable mail service. And a [study by the ACLU](#) found that younger voters and voters of color in Florida were more likely to have their ballots rejected, while also less likely to have their ballots cured.

The H.R. 1 Fix

Title I, Subtitle I of H.R. 1 is devoted to addressing the vote by mail process. H.R. 1 would ensure that all Americans can access the benefits of vote by mail and streamline vote by mail practices to ensure they are secure, easy to navigate, and limit rejections of ballots cast by eligible voters. In other words, H.R. 1 would make permanent many of the improvements to the vote by mail process achieved in 2020 and build on those improvements.

First and foremost, H.R. 1 requires states to extend vote by mail access to all citizens who are eligible to vote in a federal election. This will extend vote by mail access to millions of Americans and safeguard it for millions more. At the same time, it will eliminate vote by mail age limitations in states like Texas and Tennessee that restrict access for younger voters.

Second, H.R. 1 addresses the due process rights of voters who vote by mail and ensures a baseline set of procedures to protect voters from erroneous rejection due to faulty signature verification. These minimum procedures include immediate notice by mail, phone, *and* where available, email. It also provides voters until at least seven days after the election to resolve the problem with their ballot and allows voters to do so, again, by mail, phone, or email. CLC’s research during the 2020 cycle showed that notice and

opportunity to cure by phone, coupled with adequate time for voters to respond, are crucial to increasing the percentage of voters that resolve their ballots and have them counted.

Finally, H.R. 1 makes uniform several additional aspects of the administration of vote by mail. Among other things, Subtitle I:

- Requires that each state provide prepaid postage for mail ballots, eliminating the de facto poll tax;
- Sets a uniform postmark deadline of Election Day for absentee ballots, eliminating the current patchwork system and receipt deadlines that left voters without confidence their ballots would be counted;
- Requires vote by mail ballots to be accessible for voters with disabilities;
- Requires the expeditious delivery of mail ballots after many voters in 2020 did not receive their ballots in time; and
- Allows voters to submit their mail ballots in person at their polling place if they prefer.

H.R. 1 expands the right to vote by mail to every eligible voter in the United States for federal elections and makes the vote by mail process uniform and accessible. As states begin contemplating rollbacks to vote by mail, Congress should unequivocally affirm that all voters should have access to secure and effective voting options.

INDEPENDENT REDISTRICTING COMMISSIONS

The Problem:

In many states, the process of drawing and approving electoral districts—known as redistricting—is carried out by state legislators. This poses an obvious conflict of interest and has led to manipulation of the redistricting process for partisan advantage—a problem exacerbated by the ability of modern technology to allow legislators to target voters with surgical precision. Partisan gerrymandering harms the American people, stripping them of the right to have their votes count equally and their ability to elect candidates of their choice.

Independent Redistricting Commissions (“IRCs”) are a voter-centric reform used to ensure that district boundaries are not beholden to any political party. IRCs create a fairer process by taking redistricting out of the hands of legislators and establishing standards for commission membership and for drawing district maps.

Almost all current IRCs exist because of citizen-initiated ballot measures. In order to get on the ballot, reformers must gather hundreds of thousands of signatures, run the gauntlet of state court, and then run a successful campaign against entrenched interests. It is no surprise then that in the last ten years, efforts at IRCs by ballot initiative that gathered the requisite number of signatures have been removed from the ballot by state courts in **Arkansas, Illinois, North Dakota, and Oregon**.

In two states where voters successfully placed an initiative on the ballot and had it pass at an election, hostile state legislatures later successfully rolled back those reforms. In **Utah**, for example, the state legislature repealed a 2018 voter-approved measure that created an advisory redistricting commission but a recent act by legislature took the teeth out of their advisory power. And similarly in **Missouri**, voters successfully won a 2018 ballot initiative to create an independent commission but that was repealed in a legislature-sponsored ballot initiative that amended the state constitution to eliminate the nonpartisan demographer and use a bipartisan commission appointed by the Governor.

Most states do not have a ballot initiative process, and the legislators are unwilling to pass a bill to establish fair redistricting criteria, let alone to establish an IRC. This leaves a majority of the country with no ability to take the power of redistricting out of the hands of self-interested legislators, nor to establish fair criteria for redistricting plans.

The H.R. 1 Fix

H.R. 1’s Redistricting Reform Act requires the establishment of an independent

redistricting commission in each state, responsible for developing and enacting congressional redistricting plans. It also sets forth criteria and rules for appointment to the commission, procedures for commission business, and standards for developing a redistricting plan, including avenues for public input.

By ensuring that IRCs draw congressional district boundaries in every multi-Member state, H.R. 1 would guarantee fairness and uniformity in congressional redistricting, ensuring that the process no longer depends on state ballot initiative procedures. By establishing qualification criteria for IRC commissioners, H.R. 1 identifies individuals who would not be eligible for participation—including public office holders and candidates, their immediate family members, paid consultants, registered lobbyists, government contractors, and foreign agents—whose conflicts of interest could jeopardize the fairness of the redistricting process.

IRCs drawing boundaries in every state would represent a major step toward impartial electoral maps, a reform essential to restoring public confidence that every vote matters.



TRANSPARENCY IN ELECTIONS: DISCLOSE ACT

The Problem:

Voters want real transparency about who is spending big money on elections to reduce the influence of wealthy special interests and to limit political corruption. Yet in the 2020 election, [at least \\$750 million](#) was spent by so-called “dark money” entities that kept their donors hidden from the public, according to the Center for Responsive Politics. The 20 highest-spending dark money groups accounted for nearly \$500 million of that total, and more dark money was spent supporting Democrats than Republicans.

A portion of this \$750 million in secret spending came from dark money entities directly financing political ads in their own names. But [\\$430 million](#) of that total came from dark money groups—like Majority Forward on the left or One Nation on the right—donating to super PACs. Super PACs are legally required to disclose all donors, but when a super PAC only reports a contribution from a group that keeps its own funding a secret, then the true source of the money remains hidden from the public.

For example, in the 2020 election cycle:

- The dark money group One Nation [gave](#) more than \$62 million to Senate Leadership Fund, a super PAC associated with Senate Majority Leader Mitch McConnell. One Nation was the super PAC’s top funder, but the actual funding sources behind its \$62 million remain a secret.
- Nearly half of the \$74 million [raised](#) by the Democratic super PAC Future Forward came from dark money groups—meaning that voters don’t know where nearly \$33 million ultimately came from.
- The Congressional Leadership Fund super PAC [received](#) a total of \$26.4 million during the 2020 cycle from American Action Network, which keeps its donors secret; that dark money group [accounted](#) for one-third of the super PAC’s fundraising on its final pre-election FEC report. The donors responsible for the \$26.4 million remain secret.
- Majority Forward, a dark money group associated with Democrats, itself spent approximately \$41 million on TV ads, and additionally [gave](#) \$14 million to multiple Democratic super PACs. Voters still don’t know where its money ultimately came from.
- The super PAC Iowa Values Action [spent more than \\$1.5 million](#) on the Iowa

Senate race in the final weeks of the election, but over \$1 million of the \$1.6 million [raised came from](#) an associated dark money group, “Iowa Values.” The true source of the money remains unknown.

Another way that voters are kept in the dark about the true sources of super PAC funding comes via contributions from LLCs, which makes it difficult or impossible to uncover who directed or provided the funds. For example, there is little public record of a Lodi, New Jersey company called “East Coast Plumbing LLC,” but it somehow found the resources to [contribute](#) \$250,000 to Senate Leadership Fund. Similarly, little public information exists about “Tomfoolery LLC,” which in February [gave](#) \$75,000 to a super PAC supporting a Democratic Congressional candidate in Texas.

The candidates who benefit from dark money spending often know where the money came from—but the public does not. We need real transparency about who is spending big money on elections to reduce the influence of wealthy special interests and promote government accountability.

The H.R. 1 Fix:

Title IV, Subtitle B, Part 2 of H.R. 1, the DISCLOSE Act, would close these avenues for secret election funding by tracing big political donations back to their true source, eliminating loopholes in reporting requirements, and requiring greater disclosure for LLC donations.

First, H.R. 1 requires entities that spend \$10,000 or more on campaign-related ads in an election cycle to disclose each donor who has given \$10,000 or more during the cycle. (Donors who don’t want their names publicly disclosed may specify that their donation not be used for campaign-related ads. A nonprofit may also create a separate bank account to pay for all of its campaign-related ads, and only disclose donors of \$10,000 or more to that separate account).

Second, to prevent evasion of these disclosure requirements by running contributions through intermediary dark money groups, H.R. 1 creates a trace-back requirement. If over \$10,000 is passed from one entity to another before it is spent on campaign activity, each entity must track and report these transfers. So, for example, rather than Senate Leadership Fund disclosing merely that it received \$62 million from the secretly funded One Nation in 2020, under H.R. 1, One Nation’s major donors would be disclosed, as well.

Third, H.R. 1 makes it harder for dark money groups to evade reporting and disclosure by running carefully worded or strategically timed campaign ads. Under current law, reporting requirements only kick in when a group’s ads expressly advocate for or against the election of candidates or are run shortly before the election. This leaves

significant loopholes. In 2020, for example, \$38 million out of the \$41 million spent by Majority Forward on ads was never reported to the FEC, because the ads did not include phrases like “vote for,” and were run outside of the pre-election windows. H.R. 1 would close this loophole by requiring reporting and disclosure when groups spend over \$10,000 running ads at any time that promote, attack, support, or oppose a candidate. Therefore, if H.R. 1 were law, Majority Forward would be required to disclose the major donors who financed all of its candidate ads.

Fourth, H.R. 1 also shines a spotlight on secretive donations from LLCs and shell corporations, by requiring that companies publicly disclose their beneficial owners if they spend money in elections. So rather than Senate Leadership Fund merely reporting \$250,000 from a mysterious entity called “East Coast Plumbing LLC,” the LLC would be required to publicly report the individuals that control the entity, allowing election officials and the public to know who is behind the spending.

Voters have a right to know which wealthy special interests are spending big money to secretly influence our vote and our government. H.R. 1 would go a long way towards protecting that right.

TRANSPARENCY FOR DIGITAL POLITICAL ADVERTISING: HONEST ADS ACT

The Problem:

Current campaign finance laws do not reflect the digital nature of 21st century politics. Nearly \$2 billion was spent on digital political ads in 2020, according to some [estimates](#), but due to outdated statutes and FEC regulations, many of those ads could evade the transparency requirements that apply to other mediums and that help make our elections safe from interference.

Because of loopholes in current campaign finance law, a substantial portion of spending on online ads is never reported to the FEC, some of the digital ad spending that is reported is untraceable, and many digital ads lack disclaimers telling voters who paid for them. Moreover, many targeted digital ads are secret—only viewable only by the recipient, and not otherwise publicly available.

These problems became particularly glaring after Russia’s use of social media to secretly meddle in the 2016 presidential race exposed the ways in which inadequate digital political ad regulation leaves our electoral system open to foreign influence. But the problems largely persisted through more recent elections.

Since 2016, big online platforms like Facebook and Google have voluntarily created digital ad archives and adopted “paid for by” disclaimer requirements. Yet the public remains in the dark about the content of many targeted political ads: voluntary platform-by-platform measures are inconsistent, and many platforms that host political ads have not created archives or mandated “paid for by” disclaimers.

In 2020, countless millions were spent on digital political ads that ran on streaming services or other platforms that have not voluntarily created archives—like Hulu—and therefore, the content is largely or entirely untraceable. For example:

- Between February through July 2020, the super PAC Senate Leadership Fund [reported spending](#) over \$450,000 supporting Senate incumbents in seven states. None of these ads ran on platforms that have created archives, like Facebook or Google, so the content of the ads remains a mystery.
- Less than 4% of the \$44 million that dark money group Big Tent Project Fund [reported spending](#) on digital ads during the Democratic presidential primaries can be accounted for in the available archives.
- Facebook and Google temporarily [paused](#) all political ads in the post-November election period, so millions of dollars spent on digital ads in the Georgia senate

runoffs are not publicly available.

We cannot rely on online platforms alone to address the digital disclosure gap.

The H.R. 1 Fix

Title IV, Subtitle C of H.R. 1, the Honest Ads Act, would update disclosure and disclaimer requirements for online political advertising to reflect the nature of campaigning in the 21st century.

H.R. 1's Honest Ads Act provisions close the digital transparency gap by requiring online platforms with at least 50,000,000 unique monthly users to create a publicly available archive of political ads. Big online platforms would be required to maintain digital copies of advertisements mentioning candidates or pertaining to a national legislative issue of public importance, as well as information about audience targeting data, the average rate charged for the ad, the candidate, election, or legislative issue the ad refers to, and who purchased the ad. These records would be publicly searchable, allowing voters to be more informed about the ads they see online, allowing civil society and the press to monitor and counter misinformation, and allowing watchdogs and law enforcement to identify violations of campaign finance law.

By requiring large online platforms to maintain archives, digital advertisers would no longer be able to avoid disclosure by placing ads on big platforms that have not voluntarily created ad repositories, such as Hulu. H.R. 1 would also improve already existing ad repositories by issuing uniform requirements; Google, for example, would be required to make public a broader array of political ads than it does under its self-imposed rules.

H.R.1's Honest Ads Act provisions also expand the definition of "electioneering communications" to include paid internet ads. This means that spending on digital ads that name candidates, and that run close to election day (within 30 days of a primary and 60 days of a general), would have to be reported to the FEC, even if they do not expressly advocate for or against any particular candidate. In the 2020 elections, for example, the dark money groups [Iowa Values](#) and [Big Tent Project](#) spent tens of thousands of dollars on digital ads that promoted or attacked candidates before an election, but they never reported the spending to the FEC. Under H.R. 1, that spending would be subject to disclosure requirements.

H.R. 1 also clarifies that paid internet ads are subject to "paid for by" disclaimers. This would stop mysterious online ads from reaching voters without identifying information about who is behind them. "Paid for by" disclaimers allow voters to weigh the information contained in political advertisements and make it harder for wealthy special interests to secretly influence elections.

Finally, H.R. 1 would require online platforms to make “reasonable efforts” to avoid selling political ads to foreign nationals.

Voters have a right to know who is paying for the political advertisements they see, and which wealthy special interests are attempting to influence elections. H.R. 1 would help to close the digital disclosure gap, bringing greater transparency to our elections.

STOPPING FOREIGN MONEY IN U.S. ELECTIONS

The Problem:

Since the beginning of the Republic, the United States has been concerned about the threat of foreign influence in American politics. U.S. law prohibits any foreign national from spending in any federal, state, or local candidate elections – a ban that has been consistently [upheld](#) by the courts.

Despite the ban, however, current law leaves several openings for foreign interference in American elections.

First, the ban does not currently apply to state ballot measures, allowing foreign nationals to influence direct referenda on state laws and policies. For example:

- In 2012, Fabian Thylmann, a German national and then-managing partner of Luxembourg-based conglomerate Manwin Licensing International, [spent](#) more than \$150,000 advocating against the Los Angeles ballot measure “Safer Sex in the Adult Film Industry.” He was the largest single donor to the campaign to defeat the measure. Upon reviewing the matter, the FEC [determined](#) that the foreign national ban on political contributions did not apply to spending on ballot measures.
- In 2020, Canadian public utility company Hydro-Quebec [spent](#) roughly \$8.3 million backing a referendum aimed at killing a controversial hydropower corridor in Maine. The company continued to [spend](#) on “awareness campaigns” and strategy even after the referendum was deemed unconstitutional by the Maine Supreme Judicial Court, pouring foreign money into the state.

Second, inadequate donor disclosure law has given rise to so-called “dark money,” political spending by groups that hide their donors. When a politically active group’s donors are kept secret, there is no way to know whether any of its funding may have come from foreign sources. For example, the NRA’s dark money arm spent \$35 million on the 2016 elections, during the same period that Russian interests were [building connections](#) with the organization and providing it with at least some funding; the FBI [reportedly investigated](#) whether the NRA used any foreign money on its election ads. There is no way of knowing whether foreign money may have secretly financed any part of the \$750 million [spent](#) by dark money groups in the 2020 elections.

Third, political campaigning has increasingly moved online, but gaps in campaign finance law mean we often don’t know who is funding digital political ads, what the content is, or who is targeted. That secrecy has allowed foreign actors to influence U.S.

elections online – most notably Russia in 2016, but more recent efforts by China and Iran have also been [documented](#).

Updates to our campaign finance laws are necessary to protect our elections from the threat of foreign influence.

The H.R. 1 Fix

Multiple sections of H.R. 1 together strengthen protections against foreign election interference by extending the foreign national spending ban to ballot referenda, improving donor disclosure laws, and updating digital transparency requirements.

Title IV, Subtitle B, Part 1 of H.R. 1 would make clear that the existing ban on foreign nationals making contributions or expenditures also applies to state ballot measures and referenda. With this law in place, Fabian Thylmann and Hydro-Quebec would have been barred from spending on the initiatives in California and Maine, closing this avenue for foreign money into our political process. This section also codifies in statute the ban on foreign nationals participating in decisions to make political contributions or expenditures, and makes clear that foreign nationals are prohibited from spending money on ads promoting or attacking candidates (even if the ads do not include express electoral advocacy).

Title IV, Subtitle B, Part 2 of H.R. 1 would strengthen disclosure laws, making it harder for foreign nationals to launder money into elections through dark money groups. All entities that spend \$10,000 or more on campaign-related ads in an election cycle would be required to disclose each donor that has given \$10,000 or more during the cycle. As a result, the major donors of secretly funded groups like NRA would have to be disclosed, revealing any foreign national contributors (and likely deterring such foreign contributions in the first place).

Finally, Title IV, Subtitle C of H.R. 1, the Honest Ads Act, would improve transparency requirements for digital ads, making foreign influence easier to detect. These provisions would require that all digital political ads run on major platforms be made publicly available and include “paid for by” disclaimers, and additionally require platforms to “make reasonable efforts” to ensure communications are not purchased directly or indirectly from foreign nationals.

To protect our elections from foreign influence, we need to expand the foreign national contribution ban to state ballot measures and strengthen disclosure laws. H.R. 1 would help get foreign money out of American politics.

SMALL DOLLAR PUBLIC FINANCING

The Problem:

Our campaign finance system is awash in big money, and strengthening transparency, reigning-in super PAC coordination, and improving enforcement are critical measures to limit the secret influence of wealthy special interests. Public financing, however, will go the furthest towards creating a government that looks like, and is responsive to, the country as a whole.

Only a small fraction of Americans can afford to give thousands of dollars to candidates, and an even smaller fraction can afford to give hundreds of thousands of dollars to super PACs. Despite a [rise](#) in small-dollar online donations in recent years, most campaign money still [comes from](#) a tiny elite donor class—one that is overwhelmingly white, male, and wealthy. The donor class is hardly representative of the diversity of the country, but it has an outsized influence over who runs for office and whose voices are heard in Congress.

Under our privately funded, big-money campaign finance system, candidates are significantly advantaged if they have access to networks of wealthy individuals who can fund their campaigns; this acts as a barrier to entry for candidates of color and women who, because of the historical legacies of racism and sexism, do not have access to the same networks.

Moreover, because of fundraising demands, candidates and officeholders spend a substantial amount of time asking wealthy donors for money, often at closed-door fundraisers. This means that politicians spend a disproportionate amount of time hearing about the desires and preferences of a wealthy elite, rather than spending time with their constituents.

And, wealthy donors who pour thousands of dollars into campaigns often expect something in return—in particular, access to politicians and the opportunity to influence public policy according to their own preferences. Average voters who can't afford high-dollar political contributions are not given the same opportunities.

The H.R. 1 Fix

Title V of H.R. 1 enacts a voluntary small dollar matching program for Congressional and Presidential races to amplify the voices of average Americans—with the system financed by fines on corporate and executive wrongdoing, rather than funded by taxpayers.

H.R. 1 offers a 6-to-1 match on small-dollar contributions up to \$200. So a donor who

gives \$20 to a participating candidate would have their contribution matched with \$120 in public funds, for a total contribution of \$140; a \$200 contribution would be matched with \$1200, bringing the total to \$1400.

The program is voluntary, so candidates choose whether to opt in. In exchange for receiving public matching funds for small donations, candidates agree to not accept contributions over \$1,000 (compared with the current \$2,800 individual contribution limit), and to refuse money from PACs (unless the PAC only accepts small donations). Participating candidates also agree that they won't establish a leadership PAC or joint fundraising committee, and to limit the amount of personal funds they'll spend on their campaign.

Candidates can participate by first raising enough small donations under \$200 to qualify. House candidates become eligible by raising at least 1,000 small donations that total at least \$50,000. Presidential candidates qualify by raising small donations from 20 states that total at least \$25,000 in each state.

The program is not financed by taxpayers. Instead, the funds used for the small donor matches come from a 2.75% surcharge on criminal fines and penalties paid to the government, mostly by corporations and executives who violate the law. For example, under H.R. 1, around \$137.5 million of the \$5 billion fine paid by Facebook in 2019 would go towards funding the small donor matching program.

Additionally, H.R. 1 creates pilot "My Voice Voucher" programs in three states, modeled after Seattle's successful program. Voters in those states could receive \$25 vouchers that they could then award in \$5 increments to participating Congressional candidates of their choice, giving voters the opportunity to support candidates regardless of economic circumstances. The program empowers all residents by making everyone in the city a potential campaign contributor, and encourages candidates to reach out to people who might otherwise be ignored.

H.R. 1's public financing system would broaden the donor base, open doors for candidates of all backgrounds to compete for office, and make candidates less reliant on a small number of big donors—thereby making elected officials more responsive to the broad base of community members funding their campaigns, rather than a handful of wealthy special interests.

FEC REFORM: RESTORING INTEGRITY TO AMERICA'S ELECTIONS

The Problem:

The Federal Election Commission (“FEC”) is the sole government agency exclusively entrusted with enforcing and administering the laws that govern money in our campaign system. But it has been failing at that mission—and the failure of the FEC to enforce campaign finance laws has resulted in an explosion in secret spending and our politics are increasingly rigged in favor of wealthy special interests.

The FEC gets little attention for such an important agency, but it is a [major contributing factor](#) to the problems in our campaign finance system. For example, the rise of dark money over the past decade is largely attributable to the FEC’s failure to craft robust disclosure rules in the wake of the Supreme Court’s decision in *Citizens United*, and its refusal to enforce the disclosure laws and rules that remain on the books. In one case, the FEC refused to investigate a shell corporation that gave nearly \$1 million to a super PAC; it later turned out that a [foreign fugitive](#) had laundered the super PAC contribution through the shell corporation. In another case, a private equity executive laundered a [\\$1 million super PAC donation](#) through a shell corporation in order to keep his name hidden from the public, and the FEC let it happen.

The FEC is led by six Commissioners nominated by the President, no more than three of whom can be from the same political party. The political custom is that nominees are recommended by party leaders in Congress. To pursue investigations or take other major actions, at least four Commissioners need to agree, which in practice means that most substantive decisions require bipartisan agreement.

However, over approximately the past decade, Senate Majority Leader Mitch McConnell and other political elites have put forward FEC nominees who are ideologically opposed to campaign finance laws and their enforcement. Because the FEC needs the agreement of at least four Commissioners to enforce the law, just three Commissioners can [paralyze the agency](#). McConnell’s three commissioners have used this power to prevent the agency from taking action on important issues like disclosure of secret money, super PAC coordination, transparency for digital political advertising, and more.

The problem is not that the Republican Commissioners only vote to enforce the law against Democrats, and vice-versa; it is that McConnell’s FEC Commissioners largely refuse to enforce the law against anybody, Democrat or Republican. It was the Republican FEC Commissioners, for example, who [voted to dismiss](#) a complaint

against a Democratic super PAC that openly admitted to coordinating its spending with Hillary Clinton's 2016 campaign.

The FEC's failure to enforce the law has made political candidates from both parties more dependent on wealthy special interests, and our elected officials more responsive to those interests than they are to average Americans.

The H.R. 1 Fix

Title VI, Subtitle A of H.R. 1, the "Restoring Integrity to America's Elections Act," would restructure the agency so that it can function as an effective watchdog. The FEC reform provisions are a crucial component of H.R. 1: other H.R. 1 provisions strengthen federal law to increase transparency and protect the voices of voters, but unless the FEC is also reformed, there is a risk that those provisions will not be diligently administered and enforced.

First, H.R. 1 changes the number of FEC Commissioners from six to five to avoid deadlocks, and requires that no more than two Commissioners can be members of the same political party. This means agency actions will require at least one vote from either an independent or a member of a different party. Changing the number of FEC Commissioners to an odd number, and allowing the president to nominate a chair with broad powers to manage the agency, would bring the FEC's structure more closely in line with other independent regulatory agencies, like the Federal Communications Commission. Doing so would also improve the transparency, public understanding, and accountability of the agency.

Second, H.R. 1 reforms the Commissioner selection process to increase the likelihood that FEC Commissioners will be committed to the mission of the agency. While Commissioner nominations are ultimately up to the President, H.R. 1 creates a diverse nonpartisan "blue-ribbon" advisory panel to identify and recommend qualified nominees. This would limit the ability of insiders like McConnell to stack the FEC with ideologues. The panel's recommendations would be made public when the President submits his nominee to the Senate, placing pressure on the President to explain deviations from those recommendations.

Third, H.R. 1 strengthens the enforcement process to prevent Commissioners from shutting down investigations at an early stage. When the FEC receives a complaint or other evidence suggesting violations of campaign finance law, the FEC's nonpartisan attorneys first review the evidence and recommend whether there is "reason to believe" a violation has occurred, which is the threshold to open a formal investigation. Currently, just three out of six Commissioners can—and often do—override that recommendation and thwart further inquiry into an alleged violation. H.R. 1 would change the process to instead require a majority vote to overrule the FEC attorneys'

recommendation. So if FEC attorneys recommend “reason to believe” a violation has occurred, and the recommendation is not overruled, an investigation will take place. Similarly, after an investigation, FEC attorneys make a recommendation as to whether to find “probable cause” that a violation occurred; the Commissioners have 30 days to approve or disapprove the recommendation by majority vote. H.R. 1 would still retain the due process protections currently in place.

To reduce political corruption and protect the voices of voters in our democracy, we need a stronger FEC that will enforce campaign finance laws. H.R. 1 would fix the FEC.



STOP SUPER PAC-CANDIDATE COORDINATION ACT

The Problem:

Since 2010, courts have permitted entities like super PACs to raise unlimited contributions from individuals and corporations on the condition that they operate independently of the candidates they support. However, in practice, many super PACs have been anything but independent. This matters because close relationships between campaigns and supportive super PACs provide a way for deep-pocketed donors to evade the candidate contribution limits that are on the books to guard against corruption.

Close aides of candidates routinely establish these groups. For example, in 2016, then-Trump campaign chair Paul Manafort [dispatched](#) two Trump campaign aides to form and run the pro-Trump super PAC Rebuilding America Now. And in 2012, the first presidential election after *Citizens United*, both Barack Obama and Mitt Romney benefited from super PACs that their recent close aides set up: the Obama-supporting super PAC Priorities USA Action, together with an affiliated dark-money profit, was [launched](#) by former Obama White House aides, and the pro-Romney Restore Our Future was [started and directed](#) by senior aides from Romney's 2008 campaign. Together, the two super PACs ultimately [spent over](#) \$170 million in the 2012 presidential race on supposedly independent expenditures.

Sometimes, the candidates themselves establish super PACs before they formally declare their candidacies. Jeb Bush, for example, [launched](#) the super PAC Right to Rise and raised over \$100 million for it to support his presidential run before formally declaring his candidacy in 2015. And now-Senator Rick Scott [started](#) and chaired New Republican PAC just a year before the super PAC began spending in support of Scott's 2018 U.S. Senate run in Florida.

Another way campaigns and super PACs routinely work hand in hand is by hiring the same consultants for fundraising, research, or media. For example, in the 2020 cycle alone:

- Throughout 2019, Pete Buttigieg's presidential campaign paid fundraising consultant Zachary Allen's firm; then, in early 2020, the pro-Buttigieg super PAC VoteVets [hired](#) Allen's firm, and maxed-out Buttigieg donors [began giving](#) to the super PAC.
- Iowa U.S. Senate candidate Joni Ernst's campaign [paid](#) the firm of the fundraising consultant Claire Holloway Avella; simultaneously, the pro-Ernst super PAC Iowa Values Action as well as the pro-Ernst Iowa Values were both

[paying](#) the same fundraiser.

- Georgia U.S. Senate candidate Kelly Loeffler's campaign [paid](#) The Prosper Group for digital consulting services, and the pro-Loeffler Georgia United Victory also [paid](#) The Prosper Group for digital ads attacking Loeffler's opponents.

Yet another problem occurs when candidates directly cultivate donors for their supportive super PACs, such as by appearing at super PAC fundraisers, directing supporters to give to a particular super PAC, and offering closed-door dinners and other exclusive perks to top super PAC donors. This candidate involvement signals to big donors that the candidate values their contributions to the supposedly independent super PAC. Additionally, it gives big super PAC donors privileged access to candidates and the opportunities to voice their policy priorities—opportunities that those who cannot afford to write six- or seven-figure super PAC checks do not receive.

Among many other examples, both Obama and Romney [attended fundraisers](#) and donor events for their respective super PACs in the 2012 cycle, Senator Ted Cruz [appeared](#) at a “kickoff fundraiser” for the Cruz-supporting super PAC Keep the Promise and its affiliated groups in 2015, and, shortly after declaring her candidacy in 2015, Clinton began personally [fundraising](#) for the pro-Clinton super PAC Priorities USA Action and attending fundraising events hosted by the super PAC.

For his part, President Trump repeatedly [attended](#) fundraisers and donor appreciation events for the major super PAC supporting his 2020 re-election, America First Action. And in a rare glimpse inside one of these events, audio of an April 2018 event at the Trump International Hotel [captured](#) top America First Action donors enjoying a small, closed-door dinner with President Trump, with whom they were able to have a private audience and voice their policy priorities because they gave six- and seven-figure sums to the President's supposedly independent super PAC.

When a super PAC effectively operates as an extension of a candidate's campaign, a \$1 million corporate contribution to a super PAC can be as valuable to a candidate as a \$1 million corporate contribution to their campaign—and poses a similar risk of corruption or its appearance. Recent years have featured many examples of big super PAC donors receiving privileged access to candidates, and seeing their preferred policies prioritized or enacted. For example, the private prison company GEO Group [gave](#) \$225,000 to a pro-Trump super PAC in the final stretch of the 2016 election, just after the Obama administration announced a plan to phase out federal private prison contracts. A few months later, the new Trump administration [reversed](#) this plan, and GEO's stock [soared](#).

Title VI, Subtitle B of H.R. 1, the “Stop Super PAC-Candidate Coordination Act,” attacks these problems by expanding the list of activities that would cause a group like a super

PAC to be deemed a “coordinated” rather than an “independent” spender, which would thus subject them to contribution limits and other restrictions.

The H.R. 1 Fix:

H.R. 1 addresses this problem by deeming a super PAC or dark money group a “coordinated spender” if:

- the super PAC or dark money group is established, directed, or managed by a person who has worked for the campaign or the candidate within the previous four years;
- the candidate or her agents directly or indirectly establish the group, or request, suggest, or encourage the group’s formation;
- an immediate family member of the candidate establishes, directs, or manages the group, or engages in “more than incidental discussions about the candidate’s campaign” with the group;
- the outside group hires any fundraiser or consulting firm that is also working for the campaign of the candidate the group is backing, or has worked for that campaign within the previous two years (regardless of whether the vendor claims to have established an internal firewall separating its work for the campaign and the outside group); or
- a candidate or their agent “solicits funds, appears at a fundraising event, or engages in other fundraising activity” on behalf of a super PAC or dark money group.

Therefore, had H.R. 1 been in effect, the super PACs and dark-money nonprofits described above that were established by recent employees of the candidates, or by the candidates themselves, would have been “coordinated spenders” and would not have been permitted to raise and spend unlimited amounts supporting those candidates.

Similarly, the super PACs active in the 2020 presidential race described above, among many others, would have been prohibited from operating as unlimited “independent” spenders, because they all contracted with individuals or firms that the campaigns they supported had also paid within the previous two years.

Finally, because H.R. 1 would ban candidates and their agents from fundraising for supportive super PACs, President Trump appearing at an America First Action fundraising event would have meant that the super PAC could not raise and spend unlimited amounts supporting Trump.

ETHICS PLEDGE FOR SENIOR EXECUTIVE BRANCH EMPLOYEES

The Problem:

Existing executive branch ethics laws have proven insufficient to address the myriad revolving door issues and conflicts of interest that arise when executive branch officials join government, especially when those officials come into government after working as lobbyists or in heavily regulated industries.

For example, federal ethics laws do little to stop former lobbyists from being appointed to agencies they used to lobby, and then working in issue areas they used to lobby on before entering government. Federal statutes also place few limits on senior appointees working closely with former employers and former clients on government matters. The danger is that those senior officials will be beholden to the wealthy special interests that used to pay their salaries—not the public.

In an attempt to close these gaps in federal ethics laws, Presidents Bill Clinton, Barack Obama, and Donald Trump all instituted some version of an ethics pledge using an executive order. Each ethics pledge required senior political appointees in the executive branch to sign it and adhere to its requirements for ethical government service. While a step in the right direction, these pledges have been inconsistent across administrations and unevenly enforced. These voluntary measures have failed to adequately address the broader problems when officials move through the revolving door or have conflicts of interest relating to their former employers or clients.

When ethics pledges are issued via executive order, their minimum requirements, or whether to issue one at all, are subject to the discretion of the president serving at the time. The [Trump ethics pledge](#), for example, left out a [key provision](#) of the Obama ethics pledge that prohibited former registered lobbyists from seeking or accepting employment at an agency they used to lobby in the two years prior to appointment. Under [Obama's version](#) of the pledge, Trump's [conflict-ridden](#) Interior Secretary David Bernhardt, a former lobbyist who used to lobby Interior, could not have been appointed. Separately, under the Trump and Clinton pledges, appointees are permanently barred from lobbying on behalf of a foreign principal after leaving government; [Obama's pledge omitted such a provision](#).

Further, administration and enforcement of the pledge is left to individual agencies, and enforcement matters are rarely made public. If the agencies fail to prioritize ethics, then it is unlikely that the ethics pledge will carry any real weight. The public is largely [left in the dark](#) on whether violations occur and what enforcement looks like, if the

pledge is enforced at all. Additionally, the ethics obligations in the pledge can be [waived](#) at the discretion of the president, and those waivers may not be [disclosed](#) to the public.

The core tenets of ethical government service remain the same regardless of who is in power, and ethics requirements should be strengthened and remain consistent across administrations.

The H.R. 1 Fix

Title VIII, Subtitle G of H.R. 1 codifies the requirement that all full-time political appointees in the executive branch must sign an ethics pledge within 30 days of taking office. The pledge set forth in H.R. 1 addresses concerns that former employers and clients may have or appear to have privileged access to public officials, which they could exploit to influence those officials out of the public view.

H.R. 1's minimum criteria for an acceptable ethics pledge include common sense provisions similar to those that past executive order ethics pledges have included. For example, all full-time political appointees would be prohibited from participating for two years after appointment in particular matters involving specific parties in which a former employer or client is or represents a party. Appointees who were formerly registered lobbyists would be subject to additional restrictions. Former registered lobbyists would not be permitted to join agencies that they lobbied in the two years preceding their appointment. A former registered lobbyist would also be subject to a two-year recusal obligation from particular matters on which he or she lobbied, and would be prohibited from participating in the "specific issue area" in which a matter he or she lobbied falls. Any waivers of any ethics pledge restrictions would need to be cleared by the Director of the Office of Government Ethics ("OGE").

Codifying the ethics pledge is a critical step toward ensuring that political appointees in the executive branch do not abuse their public positions to further private interests. By making the pledge a part of the government ethics statutes and providing for its administration through OGE, H.R. 1 helps ensure compliance with and clarity of the pledge's ethics requirements.

Democracy depends on the public's trust that government officials are acting in the public's interest, not on behalf of wealthy special interests. H.R. 1's codification of the ethics pledge and its revolving door restrictions would help protect the public's trust.



ABOUT THE CAMPAIGN LEGAL CENTER

Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization based in Washington, D.C. CLC holds candidates and government officials accountable regardless of political affiliation.

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