

Returning Government to the American People

A policy framework generated by a bipartisan working group of the ReFormers Caucus

American democracy has crossed a dangerous threshold.

Our government is increasingly viewed both at home and abroad as dysfunctional. Too often, Congress operates in a continual state of chasing money for elections and stumbling from one self-imposed crisis to the next. Members of Congress spend as much as 40 percent of their time fundraising instead of focusing on the public's business. As a result, a legislature designed by the Founders to be the people's representative body is seen by the public as more responsive to donors than to voters, has a dismal approval rating and cannot effectively perform its crucial oversight duties.

Article I of the United States Constitution outlines the powers of the legislative branch and prioritizes them as the most important in our government. To thrive, our democracy requires a transparent government and participation by ordinary Americans. But currently, political disclosure is woefully inadequate, and a miniscule percentage of individuals dominate the financing of American elections — a stark contrast to *Federalist Paper #39*, which states that our government derives its legitimacy “from the great body of society, not from an inconsiderable proportion, or a favored class of it.”

The role of big money in politics is eclipsing and diminishing the role of citizens in our democracy. A large majority of Americans are convinced their elected officials do not hear their voices or pay attention to their concerns. Many across the country feel the system is rigged in favor of the wealthy and powerful and that wrongdoers can easily escape justice. Without addressing the public's concerns over pay-to-play and legal enforcement, the critical principle enshrined in American democracy, “the consent of the governed,” is seriously threatened.

Solutions to these problems will need to attract bipartisan support in both the Senate and House of Representatives to become law. As such, this ReFormers Caucus framework embraces constitutional principles and proposes solutions with appeal to both sides of the aisle, promoting a more robust marketplace of ideas consistent with the First Amendment. The framework is designed to foster new ideas, embrace 21st century technology and promote reforms already proven effective by state and local governments. By allowing everyday Americans to feel that their contributions will make a difference, the framework will encourage political participation by people all across the country.

The ReFormers Caucus framework focuses on the following core values:

- Promoting transparency and disclosure
- Increasing participation
- Reducing pay-to-play
- Strengthening enforcement
- Encouraging new jurisprudence

The goals of this framework do *not* include getting money out of politics. Rather, the framework proposes solutions grounded in the values of participatory self-government and pragmatism, embraces new trends in technology, and mirrors systems approved by referendums at the state level, all while respecting the important values of the First Amendment. Although returning the government to the American people is no small task, we believe that our ReFormers Caucus framework provides the specific ideas to achieve reform, and it is backed by the bipartisan political experience of our Caucus members to help get it enacted.

And there are many reasons to be hopeful. Twenty-five states have considered or passed programs addressing lobbying reform, ethics, small donor empowerment and clean-government agendas, through both legislative action and ballot initiatives. From Barack Obama to Bernie Sanders, and Ted Cruz to Donald Trump, a growing number of candidates are succeeding in raising money from small donors using innovative technologies and tactics. All of these experiences point to a paradigm shift that aligns with our country's historical principles of equality, fairness and entrepreneurship and signals that real change is possible on the federal level.

I. Promoting Transparency and Disclosure

Transparency and disclosure empower citizens with information to make wise decisions and evaluate candidates and commercials. However, due to a lack of proper legislative guidance, the current disclosure system falls far short of achieving the transparency the American people deserve. Solutions exist that would improve transparency and disclosure while emulating successful state-level reforms.

The ReFormers Caucus framework will:

- Require timely disclosure of political giving and spending.
- Mandate that all money spent in elections is fully disclosed, including spending by super PACs and 501(c)(4) nonprofits.
- Support transparent disclosure of spending by corporations through an executive order by the president.

- Ensure that television viewers have the tools to determine the true identity of the sponsors of political advertisements.

II. Increasing Participation

Democracy requires active and engaged citizens, and it is important to encourage more Americans to directly participate through small donor empowerment, strengthening both candidates and political parties instead of super PACs. Currently, only 0.3 percent of Americans contribute \$200 or more to federal candidates. Politics in a democracy should be funded by the bulk of the citizenry — not by a select few — and the law should encourage more citizens to donate. After small-dollar donors make a contribution, they remain more engaged in all aspects of our democracy, meaning elected officials will pay more attention to them instead of big donors. Additionally, increasing participation will also enable politicians to spend less time “dialing for dollars” and more time performing their jobs.

The ReFormers Caucus framework will:

- Incentivize small-dollar donors by offering tax credits or rebates for their contributions, allowing members more time to talk to their constituents and everyday Americans instead of wealthy interests and Washington insiders.
- Allow political parties to make unlimited coordinated expenditures from small-dollar donors for its candidates by establishing a separate account made up of only small dollar contributions (e.g., \$1,000 or less).

III. Reducing Pay-to-Play

In a democracy, lawmaking should be based on the power of ideas, not the powerful money interests behind them. The Constitution protects lobbying as a means for citizens to redress their grievances, but when money is married to lobbying, the process of deliberation is seen as a game of “pay-to-play.” To increase public confidence in our democratic system and improve the integrity of the process, we propose establishing bright, clear lines between lobbying and political giving.

The ReFormers Caucus framework will:

- Remove lawmakers’ reliance on the fundraising efforts and contributions of lobbyists by banning registered lobbyists from making contributions or bundling for congressional

campaigns. Five states, including South Carolina and California, have bans on lobbyist contributions and bundling.

- Update lobbying disclosure laws to ensure more accurate information about paid efforts to influence U.S. policymaking, especially from foreign corporations and governments, along the lines of the recommendations made by the American Bar Association Task Force on Lobbying Regulation.
- Change current law to count a contribution to a leadership PAC (whether from an individual or another PAC) against the contributor's contribution limit for the member that controls the leadership PAC. This will ensure that leadership PACs are not used as a means to evade contributions limits.
- Clarify that leadership PACs are subject to the same personal use restrictions as candidates' authorized campaign committees.
- Prohibit executive branch Cabinet secretaries from conducting campaign fundraising or attending campaign fundraisers.

IV. Strengthening Enforcement

Without effective enforcement of campaign finance and election laws, violations go unchecked. For all intents and purposes, there is no “cop on the beat” to implement the law and address violations. The Federal Election Commission (FEC) is often embroiled in partisan gridlock and has been described by its former chair as “worse than dysfunctional.” By failing to uphold the rule of law and enforce campaign finance regulations, the agency wastes more than \$60 million each year in taxpayer money. Absent this paralysis, the FEC could curtail much of the activity that super PACs engage in — the kind of activity that weakens political parties and diminishes trust in the system. This needs to be addressed.

The ReFormers Caucus framework will:

- Empower the FEC to effectively enforce the law. We support the *Restoring Integrity to America's Elections Act*, introduced by Representatives Derek Kilmer (D-WA), Jim Renacci (R-OH), John Carney (D-DE) and Lou Barletta (R-PA). This bill serves as an excellent bipartisan model. The bill would reduce the number of commissioners from six to five, eliminating much of the partisanship that currently plagues the agency, and create a chair of the agency which serves a 10-year term. The bill also would establish a blue-ribbon commission to recommend nominees to the president.
- Strengthen laws to ensure that super PACs operate wholly independently from candidates and parties, as the Supreme Court mandated.

V. Encouraging New Jurisprudence

The ReFormers Caucus framework supports the creation of a new campaign finance jurisprudence — one that fully embraces the values of the First Amendment. Many of us support a Constitutional amendment to reverse the Supreme Court's *Citizens United v. FEC* decision and applaud the numerous ballot initiatives across the country calling for the same — such as those in Colorado, Montana, Washington and others. In the meantime, we support additional, critical steps that can be taken immediately to address the most pernicious aspects of our broken system.

We believe that new Supreme Court justices should oppose the *Buckley v. Valeo* and *Citizens United* decisions. We support legal challenges in the lower courts, such as efforts challenging *Speechnow.org v. FEC*, the appellate decision responsible for creating super PACs. Additionally, we support efforts underway to change current IRS regulations that allow dark money groups to be active in political campaigns without disclosing their donors.

Conclusion

The United States Constitution begins with the words “We, The People, in order to form a more perfect Union, establish Justice, ... and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.” These sacred words remind us that the power and legitimacy of our democracy resides directly with us, its citizens. We are constantly striving to improve our system and ensure its fairness. Our country is now in a time of crisis when millions of Americans believe the system is neither fair nor just. It is time to return our government to the American people.

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