

REVITALIZING AMERICA'S ELECTION WATCHDOG

H.R. 1272: The Restoring Integrity to America's Elections Act

The Federal Election Commission (FEC) is a deadlocked and ineffective agency. Created in 1974, the Commission is charged with enforcing federal campaign laws. Intentionally structured to be weak from the beginning, the agency has become increasingly less effective, allowing violations and discrepancies in disclosure to slip through the cracks. The agency's inability to act wastes taxpayer dollars, allows violations to go unchecked, and makes America's elections less safe.

Nearly 80 percent of Americans say they are dissatisfied or angry with the way the federal government is working.¹ But just 20 percent of Americans are satisfied with our nation's laws about political donations, while 96 percent think that money in politics contributes to political dysfunction.² Americans' frustration with government is exacerbated when the agency charged with enforcing the law no longer functions, going AWOL at a time the country needs it more than ever.

Introduced by lead sponsors Rep. Derek Kilmer (D-WA) and Rep. Brian Fitzpatrick (R-PA), the Restoring Integrity to America's Elections Act (H.R. 1272) is designed to restructure the FEC and ensure it can effectively enforce laws about money in politics. The bill seeks to restore faith in the election system and allow the agency to meet the needs of elections in the 21st century.

Problems with the FEC

The unfortunate reality is that federal laws about money in politics are regularly violated. Moreover when the FEC recognizes a violation, the agency usually takes very little meaningful enforcement action. The Commission's structure is partly to blame for that inaction. Any enforcement action taken by the FEC requires at least four votes. However, because the Commission is made up of an even number of Republicans and Democrats, it deadlocks 3-3 on most major decisions, resulting in no enforcement.³ Recent history is replete with examples of violations going unpunished and federal law being degraded by inaction:

- ▶ **Outside group coordination.** In early 2015, a dispute over simple donation disclosure and illegal coordination between candidates and affiliated super PACs resulted in an even split.⁴
- ▶ **Contractor loopholes.** Later that year, the FEC voted 3-3 in a case relating to the 'Chevron' loophole, which allows federal contractors to make campaign contributions to candidates.⁵
- ▶ **Coercion.** Recently, the FEC deadlocked over a complaint that a company coerced its employees to attend political rallies and contribute to campaigns during the 2012 presidential election.⁶
- ▶ **Transparency.** The FEC split in a case involving a rapper who had illegally given money to a super PAC through his LLC without disclosing himself as the source of funding.⁷

On top of the partisan gridlock, the FEC remains an agency that fails to protect Americans due to outdated policies and lax enforcement of the law:

"Ending the partisan gridlock at the Federal Election Commission will increase transparency and give the American people confidence that campaigns are held accountable and everyone is following the same rules."

Rep. Brian Fitzpatrick (R-PA)⁸

- ▶ **Outdated rules.** Correct the Record, a pro-Hillary Clinton super PAC with paid staffers, successfully skirted FEC regulations by exploiting a 2006 decision exempting certain unpaid Internet activity (i.e., blogging) from non-coordination laws.⁹
- ▶ **Scam PACs.** A plethora of scam PACs, in which large sums of money are collected from the unsuspecting public and then never delivered to the advertised cause, have remained largely undetected by the FEC.¹⁰

“Meaningful, substantial reforms at the Commission need to happen so it can get back to weeding out campaign finance abuse and holding those who skirt the rules accountable.”

Rep. Derek Kilmer (D-WA)¹²

How to Fix the FEC

The enforcement of federal accountability and transparency laws in political campaigns is not a partisan issue. And like all laws, needs an effective watchdog that responds in real-time, without gridlock, and enforces the laws on the books. As our elections continue to grow in cost and complexity, fixing this broken law enforcement agency should be a priority for Congress. The Restoring Integrity to America’s Elections Act (H.R. 1272) would do just that by restructuring the FEC and empowering it to effectively enforce the law.

H.R. 1272 seeks to:

- ▶ **Change the number of commissioners.** By reducing the number of commissioners from six to five and permitting no more than two members to be affiliated with the same party, the FEC would become a more effective enforcer of ethics and election laws. The Commission would have the authority to initiate, defend and appeal civil actions, conduct investigations, issue advisory opinions, and change or amend regulations.
- ▶ **Create a blue ribbon panel to recommend commissioners.** To help ensure the president nominates a highly qualified appointee, the bill establishes a nonpartisan Blue Ribbon Advisory Panel to publicly recommend potential nominees to the FEC for the president’s consideration.
- ▶ **Strengthen the FEC Chair.** The bill also directs the president to appoint a chair, subject to confirmation by the Senate. The chair would have administrative powers and the power to order written reports, administer oaths, and handle witnesses and evidence.
- ▶ **Eliminate never-ending holdovers.** Currently, FEC commissioners can serve long after their term has expired while they wait for a replacement commissioner. Under the bill, commissioners serve a single six-year term and may not remain in office in holdover status for more than one year.
- ▶ **Improve enforcement.** The bill clarifies that the FEC may be represented by agency attorneys before the Supreme Court and allows those who respond to requests before the FEC to appear at hearings.¹¹

¹ Associated Press, <https://bit.ly/2Usi6va>

² Gallup, <https://bit.ly/2G6PpQI>; Washington Post, <https://wapo.st/2G15VlQ>

³ Campaign Legal Center, <http://bit.ly/1WRMMEI>

⁴ The Hill, <http://bit.ly/1XukVdO>

⁵ Federal Election Commission, <https://bit.ly/2S0oo8y>

⁶ Sunlight Foundation, <http://bit.ly/1Ue4XPc>

⁷ Center for Public Integrity, <http://bit.ly/21r9fqk>

⁸ Fitzpatrick.House.Gov, <https://bit.ly/2BIFZHP>

⁹ The Washington Post, <http://wapo.st/1UTg4Q1>

¹⁰ Center for Responsive Politics, <http://bit.ly/1ZWYL24>

¹¹ Congress.gov, <https://bit.ly/2G20YsS>

¹² Fitzpatrick.House.Gov, <https://bit.ly/2BIFZHP>