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10 Far-Reaching Congressional Ethics Reforms to Strengthen U.S. Democracy

By Michael Sozan and William Roberts April 2019



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Introduction and summary

American democracy is at a crossroads, with most Americans believing that political corruption in Washington, D.C., is widespread, that members of Congress are in the pockets of wealthy special interests, and that the federal policymaking process does not represent the views of the people. Trust in government is near an all-time low,¹ and Americans are demanding anti-corruption reforms that will make government more accountable to everyday people instead of to corporate lobbyists and the most well connected. A recent Center for American Progress report, “Bold Democracy Reforms That Build on H.R. 1,” examined a range of structural solutions that are needed to curb Washington’s culture of corruption and help ensure fair, democratic elections.² In this report, the authors narrow their focus to a subset of those solutions designed to make members of Congress more responsive to the people who elect them.

One of the greatest threats to the United States’ experiment in democracy, anticipated by its founders, is corruption in its political system. John Adams captured this concern when he wrote: “Government is instituted for the common good, for the protection, safety, prosperity, and happiness of the people, and not for profit, honor, or private interest of any one man, family, or class of men.”³ Adams and his fellow revolutionaries recognized the dangerous potential for special interests to monopolize the government and to poison the trust that the public should have in its lawmakers.

Americans deserve elected officials who represent them fairly and fight for their interests. People know that their policy priorities—including jobs that pay them fair wages, affordable health care, and clean air and water—are losing out to wealthy special interests who donate huge sums of money to help elect members of Congress and then lobby those very members of Congress on their preferred policies. Until Congress is willing to stand up to corporate power, the federal policymaking process will remain broken.

Recent elections have signaled the importance that Americans place on making the government work for all people. In 2016, for example, Donald Trump was elected to the presidency on a central promise to “drain the swamp” in Washington, D.C.⁴ Instead, President Trump and his administration have violated laws and upended long-standing norms meant to prevent corruption and conflicts of interest. Many of these activities were detailed in the final investigatory report from special counsel Robert Mueller, including President Trump’s public attacks on the special counsel’s investigation, nonpublic efforts to control the investigation, and efforts to encourage witnesses not to cooperate with the investigation.⁵ Americans’ distaste for President Trump’s dishonesty and ethics morass is evident in his historically high disapproval numbers.⁶

Recent examples of congressional corruption

In the past several years, Americans also have witnessed a constant stream of congressional malfeasance not seen since lobbyist Jack Abramoff's corrupt influence over members of Congress more than a decade ago.⁷ The Abramoff scandal, which gripped Washington, D.C., for several years, stemmed from Abramoff's illegal lobbying-related activities for clients with gambling interests and resulted in the convictions or guilty pleas of 20 people, including Rep. Bob Ney (R-OH).

Several members of Congress have been swept up in wrongdoing in the recent past—some of which has involved the violation of existing laws while other instances have highlighted gaps in current law that need to be closed. Some of the highest-profile examples of recent congressional scandals include:

- Rep. Chris Collins (R-NY) was indicted in 2018 for federal crimes related to insider trading after being accused of using nonpublic information he obtained while he was a member of the House of Representatives and sitting on the committee that oversees the pharmaceutical industry in which he heavily invested. Collins denies any wrongdoing.⁸
- In 2018, it was revealed that several members of Congress, including then-Reps. Blake Farenthold (R-TX) and John Conyers (D-MI), used at least \$17 million in taxpayer money to settle sexual harassment and other claims brought against them by their staffers.⁹
- After Sen. John McCain's (R-AZ) death in 2018, former Sen. Jon Kyl (R-AZ) used the "revolving door" twice: First, he left his powerhouse lobbying firm to fill McCain's seat, then, within months of his appointment, Kyl resigned from the Senate and returned to his lobbying firm without any cooling-off period.¹⁰

- Former Rep. Mick Mulvaney (R-SC), now President Trump’s chief of staff, openly admitted how important it was for lobbyists to donate to Mulvaney’s reelection campaign, stating, “We had a hierarchy in my office in Congress. If you’re a lobbyist who never gave us money, I didn’t talk to you. If you’re a lobbyist who gave us money, I might talk to you.”¹¹
- Sen. James Inhofe (R-OK), the chairman of the Senate Armed Services Committee, purchased more than \$50,000 of stock in a major defense contractor while simultaneously fighting to vastly increase the defense budget. Only when the media reported this unacceptable conflict of interest did Inhofe cancel the purchase of that stock.¹²
- Rep. Duncan Hunter (R-CA) was indicted in 2018 for federal crimes related to misusing campaign funds to pay for his family’s personal expenses. Hunter denies any wrongdoing.¹³
- In 2017, former Rep. Corrine Brown (D-FL) was convicted of fraud “for using a charity for poor students as her personal expense account” while she was in Congress.¹⁴
- In 2016, the Office of Congressional Ethics (OCE) determined that there was “substantial reason to believe” that then-Rep. Alan Grayson (D-FL) violated ethics rules and maybe even federal laws related to his offshore hedge fund and other financial matters.¹⁵ Grayson rejected the findings, and the House Committee on Ethics never launched a full follow-up investigation.¹⁶

Partly in response to the Trump administration’s failure to drain the swamp—it managed to make the swamp murkier, in fact—as well as the culture of corruption that swept up many members of Congress, in the November 2018 midterm elections, Americans across the nation voted again to fix the broken system. This time, they elected a historically large and diverse class of House freshmen who had campaigned on a pledge to get Congress working again for the people. Once these new members arrived on Capitol Hill, they joined forces with congressional leaders to introduce and pass the For the People Act (H.R. 1),¹⁷ a once-in-a-generation democracy reform package. Its counterpart was also filed in the Senate, where it was co-sponsored by every Democratic senator but has not yet received any Republican support.¹⁸ The democracy reform solutions in H.R. 1 and the Senate’s companion legislation span a host of areas, including ending the dominance of big money in politics, strengthening executive branch ethics rules, and protecting voting rights.

The Center for American Progress supports the solutions in H.R. 1 and its Senate counterpart and has advocated for many of its solutions for several years.¹⁹ Although H.R. 1 does not focus heavily on congressional ethics reforms, it does contain several noteworthy provisions, including: banning members of Congress from sitting on corporate boards of directors;²⁰ prohibiting members of Congress from using taxpayer monies to settle employment discrimination claims;²¹ and partially updating the outmoded definition of “lobbyist” to help shine a light on “shadow lobbyists” who influence congressional policymaking.²² Yet, there are additional, far-reaching congressional ethics solutions beyond those in H.R. 1 that would help revitalize U.S. democracy and restore voters’ faith in their elected leaders.

The depths of the public's demands for reforming the broken political system

Beyond the results of the last two election cycles, polling data also reveal the public's deep concerns about the way government is functioning, as well as voters' desire for strong solutions to make the congressional policymaking process more representative of the will of the people. *The Wall Street Journal*, NBC News, and Fox News all found that voters ranked reducing corruption as their top concern going into the November 2018 midterm elections.²³ Nearly two-thirds of voters assigned "a lot" of blame for the dysfunctional political system to "wealthy political donors" and "money in politics," according to an October 2017 poll by *The Washington Post* and the University of Maryland.²⁴ And recent polling from the Center for American Progress Action Fund shows that Americans' most widely shared view of the government's role is to make sure the country works for the benefit of all, not just those at the top.²⁵

It is not surprising that Congress is at the center of the problem, with 75 percent of Americans saying that the laws Congress is enacting "mostly reflect what powerful special interests and their lobbyists want," according to a September 2018 poll by the George W. Bush Institute, the University of Pennsylvania's Biden Center, and Freedom House.²⁶ Americans hold deeply negative feelings about Congress' performance, with an overall public approval for Congress hovering at a dismal 21 percent.²⁷ In fact, Congress is the least trusted branch of government when it comes to acting in the interest of average Americans, compared with the president and the U.S. Supreme Court.²⁸

To help restore their trust in government, voters want Congress to enact far-reaching democracy reforms. According to a *Politico*/Morning Consult poll, immediately prior to the 2018 midterm elections, 77 percent of voters said passing an anti-corruption bill to "rein in the influence of money and lobbying in Washington" was a top or important priority.²⁹ And Americans across the political spectrum said their top two concerns about government are that Congress and public officials do not play by the same rules that average people do and that there is a lack of accountability, according to a poll commissioned by Open the Government in May 2018.³⁰ Voters also believe that the

upside of accountability, oversight, and transparency measures would be that fraud, abuse, and corruption are rooted out and that Congress would follow the rule of law and ethics requirements, that same poll revealed.³¹

Finally, voters—particularly swing voters—find discussions about specific policies such as those concerning jobs and health care more persuasive when such policies are tied to democracy reform. For example, polling data from three battleground states show that economic messaging also incorporating democracy reform solutions scored between 7 percent and 15 percent better than economic messaging on its own.³² This indicates yet again that Americans are demanding that the rigged policymaking process be fixed in order to pass policies they support and hold Congress to a higher ethical standard.

Bold structural solutions to reform congressional ethics

Members of Congress must fight for strong structural solutions so that elected leaders work for the people, not for their own personal benefit or the benefit of wealthy special interests. Many congressional ethics policies should be passed into federal law to restore Congress as a branch of government that is fully equipped to represent the common good. Uplifting examples from a previous Center for American Progress report, the authors highlight several of these solutions, specifically for Congress.

Ban lobbyists from fundraising for politicians

One of the most ambitious anti-corruption solutions that leaders should advance is a law banning lobbyists from fundraising for candidates for federal office, including members of Congress.³³ Simply put: If you lobby, you cannot fundraise, and if you fundraise, you cannot lobby. Although lobbyists are subject to the same contribution limits as other individuals—\$2,800 per candidate, per election—many lobbyists provide far more financial support to members of Congress by hosting fundraising events and bundling contributions.³⁴ This bold structural solution would ban not only those activities, but also more broadly, any solicitation of contributions for a candidate beyond a lobbyist’s personal contribution limits. Sen. Michael Bennet (D-CO) and Rep. John Sarbanes (D-MD) filed legislation in 2018 that would help end lobbyist fundraising, but there are other forms of the ban that policymakers could propose.³⁵

The right to petition the government and public officials is an important constitutional right and integral part of a participatory democracy, but access to government officials should not be bought and sold. Massive lopsided lobbying by industry and business over public interest lobbying can undermine the democratic process.³⁶ An advocate’s attempt to persuade lawmakers on an issue’s merits should be separate from the advocate providing money for a lawmaker’s campaign. In other words, the link between financial incentives and policy outcomes must be broken in order to minimize actual or perceived corruption.

Ban contributions to members of Congress from entities under the jurisdiction of their committees

Another solution to reduce corrupting conflicts of interest is to prohibit members of Congress from receiving campaign donations from entities overseen by the committees on which the members sit.³⁷ Exceptions could be made for donations from rank-and-file employees, small businesses, and people who live in a candidate's district or state, among others. For example, if a senator sits on the Senate Armed Services Committee, she generally would be banned from accepting campaign contributions from defense contractors. Members of Congress receive huge fundraising hauls—up to half of all their campaign money—from industries and groups under the jurisdiction of their committees.³⁸ At the same time, regulated entities with major financial stakes riding on the decisions of Congress have a serious financial incentive in getting committee action, or inaction, favorable to their interests, even when it runs counter to the public interest. Many members of Congress already have decided to voluntarily reject campaign contributions from industries over which their committees have jurisdiction, with other members of Congress going further and rejecting all corporate political action committee (PAC) money.³⁹ People understand the conflicts that arise from committee contributions, which is why 88 percent of voters, including 86 percent of Trump voters, support breaking the corrupting link between committee membership and fundraising.⁴⁰

Eliminate shadow lobbying by comprehensively defining who is a lobbyist

The current definition of lobbying is all too easily evaded and has resulted in many people engaged in lobbying activities failing to register or deregistering.⁴¹ As a bipartisan task force of the American Bar Association concluded, the outmoded definition of lobbyist in the Lobbyist Disclosure Act should be updated.⁴² First, Congress should expand the definition to include several activities that are part of modern-day lobbying campaigns, including the provision of paid strategic advice and counseling in support of lobbying government officials. H.R. 1 indeed made a definitional change meant to capture more lobbying activities, but the definition can be further expanded to capture additional activity;⁴³ to that end, bills that would update the definition of lobbying have been introduced in both the House and Senate.⁴⁴ Second, lawmakers should require that a person who spends time lobbying—even if she spends far less than the currently required 20 percent of her time lobbying, or less than the 10 percent threshold delineated in H.R. 1—to register as a lobbyist.⁴⁵

Implementing effective policies to fight the corrupting influence of special interest lobbyists depends on an accurate and effective system of lobbyist registration.⁴⁶ Expanding lobbying disclosure would allow the public to better understand who is spending money to try to influence government—as well as how much money is being spent—so that lawmakers are held accountable.

Close the revolving door

Far too often, members of Congress leave office and immediately travel through the infamous revolving door to represent industries that have business before the federal government. Corporations, lobbying firms, and interest groups hire departing members of Congress and top staffers at a rapid clip.⁴⁷ To help reduce the potentially corrupting ties between members of Congress and wealthy special interests, substantial new revolving door restrictions should impose a lifetime lobbying ban on members of Congress and a five-year ban on their senior staffers. Existing rules do not go far enough: Senators are subject to only a two-year ban on lobbying Congress, and members of the House, as well as selected senior staffers, are subject to a one-year ban. The political system is corrupted when members of Congress walk right off Capitol Hill and into lucrative jobs that will entail lobbying, often after negotiating the terms of their employment while still holding office.⁴⁸

Require members of Congress and senior staffers to disclose job hunting in order to prevent conflicts of interest

As noted above, the revolving door between Congress and regulated industries is busier than ever, creating conflicts of interest that weaken Americans' trust in government.⁴⁹ In response, Congress should tighten existing job-searching requirements in a number of ways.⁵⁰ For example, members and senior staffers should be required to more effectively disclose publicly any job seeking they conduct while serving in office. Congress also should strengthen the process so that determinations of conflicts of interest are not left up to individual members, who all too often decide to escape public scrutiny of their job searches.

Strengthen criminal anti-corruption laws

Federal statutes should be updated to help prosecutors punish lawmakers involved in bribery, corruption, and related offenses.⁵¹ In fact, a recent poll from the Center for American Progress Action Fund revealed that Americans' top priority for cleaning up the political system is to strengthen the punishment for political corruption, including prosecuting politicians who take illegal actions to help their donors.⁵² Yet, in recent years, the U.S. Supreme Court has narrowed the application of the basic bribery, extortion, and illegal gratuities laws. One of the high court's most notable cases in this area resulted in vacating the conviction of former Virginia Gov. Robert McDonnell (R),⁵³ a misguided decision that led to the reversal of several other high-profile convictions of elected officials.⁵⁴ In response, Congress should bolster laws related to illegal gratuities, honest services fraud, and bribery. Necessary reforms should include, among other steps, broadening what it means for a public official to perform an "official act," clarifying the meaning of "thing of value," and prohibiting officials from secretly acting in their own financial self-interest, as opposed to taking a direct bribe.⁵⁵ In 2012, even before the *McDonnell* case, the Senate passed bipartisan legislation from Sens. Patrick Leahy (D-VT) and John Cornyn (R-TX) to help accomplish some of these key reforms, but the conservative-led House refused to adopt it.⁵⁶

Strengthen congressional ethics enforcement

In 2008, in the wake of the infamous Jack Abramoff lobbying scandal, the House established the Office of Congressional Ethics.⁵⁷ The OCE is an independent entity charged with reviewing allegations of misconduct against members of the House and referring matters to the House Committee on Ethics. Congress should now take additional steps and enshrine the OCE in statute, instead of merely in House rules; give it more independence; and provide it with more investigatory authority, such as subpoena power.⁵⁸ Though intended to be an independent check on the House's ability to root out its own bad behavior, the OCE's lack of subpoena authority and other investigatory tools has hampered its effectiveness. Additionally, a counterpart to the OCE should be created to help police the Senate.⁵⁹ One of the OCE's most powerful assets is the reports it publishes about members believed to have violated House rules, which gives the public a window into congressional ethics enforcement.⁶⁰ If the recent spate of congressional scandals has proved anything, it is that significant watchdog resources are needed to help root out behavior that abuses the public's trust.⁶¹

Ban individual stock ownership by members of Congress

In 2012, Congress passed the Stop Trading on Congressional Knowledge (STOCK) Act, aimed at ending the corrupting effects of insider trading in Congress.⁶²

Although that law imposed several new requirements, Congress' culture around stock investments remains remarkably lax.⁶³ In light of recent corruption scandals, laws must be updated to prevent members from individually owning shares of companies.⁶⁴ Some members of Congress, including Sens. Elizabeth Warren (D-MA), Jeff Merkley (D-OR), and Sherrod Brown (D-OH), have proposed this policy reform.⁶⁵ Stock ownership can implicate blatant conflicts of interest when members of Congress are able to build personal wealth by trading stocks of companies that have a financial stake in the business before Congress—including before the committees on which members serve.⁶⁶

Ban members of Congress and their senior staffers from ever representing foreign governments or foreign political parties

Members of Congress and senior staffers already are legally barred for one year after their government service from representing foreign governments or foreign political parties.⁶⁷ President Trump issued an executive order⁶⁸ applying this ban to executive branch political appointees for life, although waivers can be granted secretly and without explicit standards.⁶⁹ Congress should pass a law to impose a lifetime ban on members of Congress and their senior staffers, as well as executive branch political appointees, from representing foreign governments or foreign political parties. Recent events show the great lengths that some foreign governments will go to manipulate U.S. elections and policy—often in secret.⁷⁰ Foreign actors should not be allowed to enlist former members of Congress or former senior administration officials toward that aim.

Provide appropriate budgets for congressional offices to reduce lobbyist influence

As discussed, Congress is far too susceptible to the corrupting influence of corporate lobbyists and wealthy special interests.⁷¹ One cause for this is that Congress suffers from profound institutional decay caused by decades of reduced investment in its internal resources.⁷² Budget cuts have adversely affected members' offices, committees, and expert offices such as the Congressional Research Service and

Congressional Budget Office. This dynamic, coupled with low pay and long hours for staff, which cause high turnover, has weakened institutional expertise and capacity.⁷³ At the same time, corporate interests regularly deploy an army of lobbyists across all policy areas that outnumbers members of Congress and staffers combined.⁷⁴ This dangerous imbalance has created a vacuum that leaves Congress strained and dependent on outside help as it seeks to craft legislation.⁷⁵ The solution to this corruption challenge is to invest more—not less—in the legislative branch, to build up internal capacity, and to weaken special interest influence.

Conclusion

Big-monied donors and well-connected corporations all too often have outsized influence on members of Congress and prevent them from being fully responsive to the needs of their constituents. This fundamental misalignment results in voter mistrust of Congress. It is little wonder that hardworking Americans who are struggling to find well-paying jobs, affordable health care, or clean air and water believe that Congress does not have their best interests at heart. But far-reaching remedies exist for reform-minded members of Congress and other leaders who want to chart a new path for the legislative branch. By reducing the corporate hold over Congress, our democracy can and must be rebalanced so that Americans regain trust in the legislative branch and have faith that the government works of, by, and for the people.

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As progressives, we believe America should be a land of boundless opportunity, where people can climb the ladder of economic mobility. We believe we owe it to future generations to protect the planet and promote peace and shared global prosperity.

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We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, American Progress can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

