

Why Congress Must Pass the ‘For the People Act’

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American democracy urgently needs repair. We now have a historic opportunity to bring about transformative change. In both houses of Congress, the For the People Act — H.R. 1 in the House and S. 1 in the Senate — was designated as the first bill, a top priority this session. This historic legislation responds to twin crises facing our country: the attack on democracy, epitomized in the assault on the Capitol on January 6, and the urgent demand for racial justice. It is based on the key insight that the best way to defend democracy is to strengthen democracy. If enacted, it would be the most significant voting rights and democracy reform in more than half a century.

The 2020 election, like the 2018 midterms, featured historic levels of voter mobilization — the highest in over a century, even in the face of a deadly pandemic. But there were also unprecedented efforts to thwart the electoral process and disenfranchise voters, primarily in Black and brown communities, based on lies about “voter fraud” (culminating in the violent attack on the Capitol). Extreme partisan gerrymandering continued to distort far too many races for the House. And despite increased engagement by small campaign donors, the most expensive campaign in American history was still largely bankrolled by a small coterie of individual megadonors and entrenched interests.

While these problems were more extreme this cycle,

they are certainly not new. For decades, public trust has declined as our political system’s longstanding challenges have worsened: Citizens’ voices have been silenced through voter suppression, gerrymandering, and deceptive tactics. Wealthy campaign donors maintain outsized sway over policy. And the guardrails against discrimination, corruption, and manipulation of the system for personal gain have all been cast aside or eroded. The virulent coronavirus, whose worst effects in terms of both health and economics have fallen disproportionately on communities of color, underscores the urgent need for a functioning democracy that serves all the people.

But here is the good news: we know what we need to do to address these problems and strengthen American democracy. It starts with passing the For the People Act. The Act incorporates key measures that are urgently needed, including automatic voter registration and other steps to modernize our elections; a national guarantee of free and fair elections without voter suppression, coupled with a commitment to restore the full protections of the Voting Rights Act; small donor public financing to empower ordinary Americans instead of big donors (at no cost to taxpayers) and other critical campaign finance reforms; an end to partisan gerrymandering; and a much-needed overhaul of federal ethics rules.

These reforms respond directly to Americans’ desire

for real solutions that ensure that each of us can have a voice in the decisions that govern our lives, as evidenced by their passage in many states, often by lopsided bipartisan margins. They are especially critical for communities of color. Racial justice cannot be fully achieved without a system in which all Americans have the means to advocate for themselves and exercise political power.

As President Biden remarked in his inaugural address: democracy is precious, but democracy is also fragile. The 2020 election revealed a passionate commitment to democracy on the part of tens of millions of Americans who braved a deadly pandemic, voter suppression, and a concerted campaign of presidential lies to make their voices heard. Now a new Congress and president must honor that commitment and fulfill their promise to secure representative democracy in America now and for future generations.

Voting Rights

The right to vote is at the heart of effective self-government. In the Federalist Papers, Alexander Hamilton and James Madison laid down a standard for our democracy: “Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscurity and unpropitious fortune. The electors are to be the great body of the people of the United States.”¹ For over two centuries, we have worked to live up to that ideal, but have consistently fallen short. Many have struggled, and continue to struggle, for the franchise. The For the People Act would expand and protect this most fundamental right and bring voting into the 21st century.

Modernize Voter Registration

One in five eligible Americans is not registered to vote, due in many cases to out-of-date and ramshackle voter registration systems.² We must modernize these systems.

The United States is the only major democracy in the world that requires individual citizens to shoulder the onus of registering to vote (and reregistering when they move).³ In much of the country, voter registration still relies on error-prone pen and paper. Paper forms make mistakes and omissions more likely, and they increase the risk of inaccurate entry of information into databases by election officials. A 2012 report by the Pew Center on the States estimated that roughly one in eight registrations in America is invalid or significantly inaccurate.⁴

These problems decrease turnout. Each Election Day, millions of Americans go to the polls only to have trouble

voting because of registration flaws. Some find their names wrongly deleted from the rolls. Others fall out of the system when they move.⁵

Outdated registration systems also undermine election integrity. Incomplete and error-laden voter lists create opportunities for malefactors to disenfranchise eligible citizens. Officials with partisan motives can remove voters from the rolls because of minor discrepancies, such as spelling mistakes, incomplete addresses, or other missing information. These systems are also far more expensive to maintain than more modern systems. In Arizona’s Maricopa County, for example, processing a paper registration costs \$0.83, compared to \$0.03 for applications processed electronically.⁶

The Covid-19 pandemic put outdated registration systems under even greater stress. Quarantines, illnesses, and social distancing reduced access to government offices, voter registration drives were curbed, and the post office was disrupted in the lead-up to the election. The result was a dramatic reduction in voter registration rates in many states.⁷

Automatic Voter Registration

Automatic voter registration, a key component of the For the People Act, would transform and modernize our current registration systems. This bold, paradigm-shifting approach would add tens of millions of voters to the rolls, cost less, and bolster security and accuracy. It is now the law in 19 states and the District of Columbia.⁸ It should be the law for the entire country.

Under automatic voter registration (AVR), every eligible citizen who interacts with designated government agencies, such as the Department of Motor Vehicles (“DMV”), a public university, or a social service agency, is automatically registered to vote, unless they decline registration. It shifts registration from an “opt-in” to an “opt-out” process, aligning with people’s natural propensity to choose the default option presented to them. If fully adopted nationwide, AVR could add as many as 50 million new eligible voters to the rolls — the largest enfranchisement since the 19th Amendment was ratified.⁹

The policy also requires that voter registration information be electronically transferred to election officials as opposed to an antiquated infrastructure of paper forms and snail mail. This significantly increases the accuracy of the rolls and reduces the costs of maintaining them.¹⁰

California and Oregon became the first states to adopt AVR in 2015. Since then, 17 more states and the District of Columbia followed — many with strong bipartisan support. In Illinois, for example, the state legislature passed AVR unanimously, and a Republican governor signed it into law.¹¹

The new system has proven extraordinarily successful, increasing registration rates in nearly every state where it has been implemented. In Vermont, for example, registrations went up by 60 percent after it adopted AVR, and in

Georgia, they increased 94 percent. In eight jurisdictions that implemented AVR for the 2018 election, 2.2 million people were registered to vote through AVR, and up to 6 million people had their registration information updated.¹²

There is strong reason to believe that this reform also boosts turnout. When voters are automatically registered, they are relieved of an obstacle to voting, thus increasing the likelihood they will show up to the polls. Automatic registration also exposes more voters to direct outreach from election officials and others.¹³ Indeed, Oregon saw the nation's largest turnout increase after it adopted AVR. It had no competitive statewide races, yet the state's turnout increased by 4 percent in 2016 — 2.5 percentage points higher than the national average.¹⁴ In the eight jurisdictions analyzed, AVR resulted in hundreds of thousands of new voters at the polls. Other reforms that make it easier to register have also increased turnout, such as permitting registrants who move anywhere within a state to transfer their registration and vote on election day at their new polling place.¹⁵ These measures send a strong message that all eligible citizens are welcome and encouraged to participate in our democracy.

Many election officials support AVR because it improves administration and saves money. Virtually every state that has implemented electronic transfer of registration records from agencies such as the DMV to election officials has reported substantial savings due to reduced staff hours processing paper and lower printing and mailing expenses. Eliminating paper forms improves accuracy, reduces voter complaints about registration problems, and reduces the need for the use of provisional ballots.¹⁶

Voters strongly support AVR. According to recent polling, 65 percent of Americans favor it. Michigan and Nevada adopted AVR this past election by popular referendum, with overwhelming support from voters across the political spectrum. Alaska voters passed AVR in 2016 with nearly 64 percent of the vote.¹⁷

The For the People Act sensibly makes AVR a national standard, building on past federal reforms to the voter registration system.¹⁸ Critically, the act requires states to put AVR in place at a wide variety of government agencies beyond the DMV, including those that administer Social Security or provide social services, as well as higher education institutions. It requires a one-time “look back” at agency records to register eligible individuals who have previously interacted with government agencies, while protecting voters' sensitive information from public disclosure.

AVR also includes multiple safeguards to ensure that ineligible voters are not registered and to prevent people from being punished for innocent mistakes. The government agencies designated for AVR regularly collect information about individuals' citizenship status and age, and they are already required to obtain an affirmation of U.S.

citizenship during the registration transaction. Before anyone is registered, agencies must inform individuals of eligibility, the penalties for illegal registration, and offer an opportunity to opt out of registrations. Election officials, too, are required to send individuals a follow-up notice by mail. Indeed, election officials report that AVR *enhances* the accuracy of the rolls.¹⁹

Same-Day and Online Registration

The For the People Act would boost voter participation further by establishing same-day and online registration. This would eliminate cumbersome paperwork and waiting periods. With a few clicks or a trip to the polls with proper documentation, eligible voters would be able to cast a ballot.

Same-day registration (SDR) complements AVR, allowing eligible citizens to register and vote on the same day. It is particularly useful to people who have not interacted with government agencies or whose information has changed since they last did so. And because it allows eligible Americans to vote even if their names are not on the voter rolls, SDR safeguards against improper purges, registration system errors, and cybersecurity attacks.

SDR has been used successfully in several states since the 1970s. Today, 21 states and the District of Columbia have passed some form of same day registration, either on election day, during early voting, or both.²⁰ SDR has been shown to boost voter turnout by 5 to 7 percent.²¹ More than 60 percent of Americans support it.²²

The For the People Act also requires states to offer secure and accessible online registration. At a time when many Americans do everything from banking to reviewing medical records online, voters want this convenient method of registration. The online registration provisions in the For the People Act would let all voters register, update registration information, and check registrations online. This option has been especially critical during the Covid-19 pandemic, when voters were prevented from registering by other means. The act would also ensure that these benefits are available to citizens who do not have drivers licenses.

In addition to convenience and safety, online registration saves money and improves voter roll accuracy. Processing electronic applications is a fraction of the cost of processing paper applications, and election officials report that letting voters enter their own information significantly reduces the likelihood of incomplete applications and mistakes. It is not surprising, therefore, that online registration is incredibly popular and has spread rapidly. In 2010, only six states offered online voter registration. Now, 39 states and the District of Columbia do.²³

Taken together, AVR, SDR, and online registration would ensure that no eligible voter is left out of our democratic process. It is time to bring these reforms to the whole country.

Protect Against Flawed Purges

Modernizing our voter registration system means not only registering all eligible voters, but also making sure those eligible voters stay on the voter rolls. Voter purges — the large-scale deletion of voters' names from the rolls, often using flawed data — are on the rise. In 2018, they were a key form of vote suppression used by election officials around the country.²⁴ We should address this growing threat by curbing improper efforts to remove eligible voters.

Purge activity has increased at a substantially greater rate in states that were subject to federal oversight under the Voting Rights Act of 1965 (VRA) prior to the Supreme Court's decision in *Shelby County v. Holder*. The Brennan Center has calculated that more than 17 million voters were purged from the polls nationwide between 2016 and 2018. Over the same period, the median purge rate in jurisdictions previously covered by the VRA was 40 percent higher than the purge rate in jurisdictions that were not covered. Georgia, for example, purged twice as many voters — 1.5 million — between the 2012 and 2016 elections as it did between 2008 and 2012. The state also saw most of its counties purge *more than 10 percent* of their voters within the past two years alone. Texas purged 363,000 more voters between 2012 and 2014 than it did between 2008 and 2010. We ultimately found that 2 million fewer voters would have been purged between 2012 and 2016, and 1.1 million fewer between 2016 and 2018, if jurisdictions previously subject to preclearance had purged at the same rate as other jurisdictions.²⁵

Incorrect purges disenfranchise legitimate voters and cause confusion and delay at the polls. And purge practices can be applied in a discriminatory manner that disproportionately affects minority voters. In particular, matching voter lists with other government databases to ferret out ineligible voters can generate racially discriminatory results if the matching is done without adequate safeguards. Black, Asian American, and Latino voters are much more likely than white voters to have one of the most common 100 last names in the United States, resulting in a higher rate of false positives.²⁶

The For the People Act creates strong protections against improper purges. It puts new guardrails on the use of interstate databases (such as the now defunct and much maligned Crosscheck system) that purport to identify voters that have reregistered in a new state, but that have been proven to produce deeply flawed data.²⁷ It prohibits election officials from relying on a citizen's failure to vote in an election as reason to remove them from the rolls. And it requires election officials to provide timely notice to removed voters, as well as an opportunity to remedy their registration before an election.

Restore the Voting Rights Act

The For the People Act contains an express commitment to restore the full protections of the Voting Rights Act, which the U.S. Supreme Court crippled with its ruling in *Shelby County v. Holder* in 2013.²⁸ VRA restoration is accomplished through separate legislation, the Voting Rights Advancement Act of 2019, or H.R.4, which passed the House of Representatives on December 6, 2019.²⁹

As recent experience makes clear, restoration of the VRA — the engine of voting equality in our country — is critical. The VRA is widely regarded as the single most effective piece of civil rights legislation in our nation's history.³⁰ As recently as 2006 it won reauthorization with overwhelming bipartisan support.³¹ But in the absence of a full-force VRA, the 2018 midterm elections were marred by the most brazen voter suppression seen in decades.³² Election officials executed large-scale voter purges and closed polling places and early voting sites, especially in minority neighborhoods.³³ Burdensome voter ID requirements targeted minority citizens.³⁴ Unnecessarily strict registration rules, like Georgia's "exact match" policy, put 53,000 voter registrations on hold, the overwhelming majority of whom were Black, Latino, and Asian American voters.³⁵ And many absentee ballots were suspiciously rejected.³⁶ A fully functional VRA would have prevented many of these abuses. We must commit to restoring the act to ensure that all Americans have a voice in our democracy.

For nearly five decades, the linchpin of the VRA's success was the Section 5 preclearance provision. It required certain states with a history of discriminatory voting practices to obtain approval from the federal government before implementing any voting rules changes. Section 5 deterred and prevented discriminatory changes to voting rules right up until the time the Supreme Court halted its operation. Between 1998 and 2013 alone, Section 5 blocked 86 discriminatory changes (13 in the final eighteen months before the *Shelby County* ruling), caused hundreds more to be withdrawn after a Justice Department inquiry, and prevented still more from being advanced because policymakers knew they would not pass muster.³⁷

Shelby County eviscerated Section 5 by striking down the "coverage formula" that determined which states were subject to preclearance. That resulted in a predictable flood of discriminatory voting rules, contributing to a now decade-long trend of states adopting new restrictions, which the Brennan Center has documented extensively. Within hours of the Court's decision, Texas announced that it would implement what was then the nation's strictest voter identification law — a law that had previously been denied preclearance because of its discriminatory

impact. Shortly afterward, Alabama, Arizona, Florida, Mississippi, North Carolina, and Virginia also moved ahead with restrictive voting laws or practices that previously would have been subject to preclearance.³⁸ In the years since, federal courts have repeatedly found that new laws passed after *Shelby County* made it harder for minorities to vote, some intentionally so.³⁹

Section 2 of the VRA — which prohibits discriminatory voting practices nationwide and permits private parties and the Justice Department to challenge those practices in court — remains an important bulwark against discrimination. But Section 2 lawsuits are not a substitute for preclearance. They are far more lengthy and expensive, and often do not yield remedies for impacted voters until after an election (or several) is over.⁴⁰

H.R. 4 updates the VRA's coverage formula to restore the act's full force. It is backed by a thorough legislative record documenting the recent history of voter suppression in U.S. elections. While H.R. 4 passed in the House of Representatives, it has yet to be taken up by the Senate. This crucial legislation must become law in order to fortify the right to vote and the integrity of our elections. The For the People Act commits us to this goal.

Restore Voting Rights to People with Prior Convictions

Nationally, state laws deny 4.5 million citizens the right to vote because of a criminal conviction — 3.2 million of whom are no longer incarcerated. The laws that disenfranchise them originate primarily from the Jim Crow era, shutting people who work, pay taxes, and raise families out of our political system.⁴¹ We should restore voting rights to Americans living in the community. This would strengthen our communities, offer a second chance to those who have served their time, and remove the stain of a policy born out of Jim Crow.

Disenfranchisement laws vary dramatically from state to state. In states like Vermont and Maine, people currently in prison are allowed to vote. Some states distinguish between different types of felonies, while others treat repeat offenders differently. Jurisdictions also have varying rules on what parts of a sentence must be completed before rights are restored, such as paying off debt or other legal financing obligations.⁴² Navigating this patchwork of state laws causes confusion for everyone — including election officials and prospective voters — about who is eligible to vote. The real-world result is large-scale disenfranchisement not only of ineligible persons, but also of potential voters who are eligible to register but wrongly believe they are barred from doing so by a prior conviction.⁴³

Regardless of their particular terms, criminal disenfranchisement laws are rooted in discriminatory practices that disproportionately impact Black voters. In 2016, 1 in 13 voting-age Black citizens could not vote, a disenfranchisement rate more than four times that of all other Americans.⁴⁴ This unequal impact is no accident — many states' criminal disenfranchisement laws are rooted in 19th century attempts to evade the Fifteenth Amendment's mandate that Black men be given the right to vote.⁴⁵

This disproportionate impact on people of color means that all too often, communities are shut out of our democracy. Disenfranchisement laws have a negative ripple effect beyond those people within their direct reach. Research suggests that these laws may affect turnout in neighborhoods with high incarceration rates, even among citizens who are eligible to vote.⁴⁶ This is not surprising: Children learn civic engagement habits from their parents. Neighbors encourage each other's political participation. And when a significant portion of a community is disenfranchised, it sends a damaging message to others about the legitimacy of democracy and the respect given to their voices.

The For the People Act adopts a simple and fair rule: if you are out of prison and living in the community, you get to vote in federal elections. It also requires states to provide written notice to individuals with criminal convictions when their voting rights are restored.

These changes would have a profoundly positive impact on affected citizens and society. We all benefit from the successful reentry of formerly incarcerated citizens into our communities. Restoring their voting rights makes clear that they are entitled to the respect, dignity, and responsibility of full citizenship.

Voting rights restoration also benefits the electoral process by reducing confusion and easing the burdens on elections officials to determine who is eligible to vote. If every citizen living in the community can vote, officials have a bright-line rule to apply. This clear rule also eliminates one of the principal bases for erroneous purges of eligible citizens from the voting rolls.⁴⁷ In past elections, states have botched attempts to remove Americans with past criminal convictions from the rolls, improperly removing many eligible citizens. For example, in 2016 thousands of Arkansans were purged because of supposed felony convictions — but the lists used were highly inaccurate, and included many who had never committed a felony, or who had had their voting rights restored.⁴⁸

For these reasons, rights restoration is immensely popular regardless of political views. In November 2018, 65 percent of Florida voters passed a ballot initiative restoring voting rights to 1.4 million of their fellow residents, with a massive groundswell of bipartisan support. Unfortunately, the state legislature significantly undercut the will of the people by conditioning rights restoration on the payment of criminal justice fees and fines, a move

that was later upheld by a federal court of appeals. Louisiana, through bipartisan legislation, restored voting rights to nearly 36,000 people convicted of felonies. In December of 2019, newly elected Governor Andy Beshear signed an executive order restoring the vote to some 140,000 Kentuckians. Shortly after, the New Jersey legislature restored voting rights to 80,000 people on parole or probation. Governor Kim Reynolds, Republican of Iowa, recently signed an executive order that restores voting rights to Iowans who have completed their sentences. And over the past two decades, 18 states have restored voting rights to segments of the population.⁴⁹

Congress has the authority to act. Many state criminal disenfranchisement laws were enacted with a racially discriminatory intent and have a racially discriminatory impact, violating the Fourteenth and Fifteenth Amendments, which vest Congress with broad power to enforce their protections. Congress can also act under its Article I power to set the rules for federal elections. The Supreme Court has previously upheld the use of this power in analogous circumstances, such as when Congress lowered the voting age to 18 in federal elections.⁵⁰ It is time to finally put one of the most troubling legacies of the Jim Crow era behind us.

Strengthen Mail Voting Systems

The For the People Act would also create a baseline standard for access to mail voting in federal elections. The 2020 election season, which took place during a global pandemic, made clear that Americans need different options for how to vote, including the option to vote by mail, in order to accommodate the needs of a diverse electorate. What's more: mail voting is increasingly popular with voters. Even before the pandemic, roughly one-quarter of American voters cast mail ballots in the 2014, 2016, and 2018 presidential elections.⁵¹ That percentage shot up this past November, as more than 65 million Americans successfully and securely voted by mail.⁵² Increased mail voting undoubtedly contributed to the surge in participation in the 2020 elections, which reached 66.7 percent of the voting-eligible population (over 159 million people), the highest rate in over a century.⁵³

This surge in mail voting was enabled by significant expansions of access to mail voting in many states. These reforms included broadening the scope of who could vote by mail; automatically mailing ballot applications or ballots to eligible voters; implementing better processes for voters to receive notice of and cure defective mail ballots; and extending ballot return deadlines, among other critical reforms.⁵⁴

Unfortunately, although the 2020 election demon-

strated the value of mail voting, it also exposed the deficiencies and inequities of mail voting systems in many states. First, many of the changes that increased access to mail voting were made through temporary legislation or timebound executive orders that expired after the 2020 general election. Second, even in the face of the pandemic, a number of states continued to place unreasonable restrictions on the ability to vote by mail. For example, five states continued to require voters to provide an excuse for not voting in person. That was down from 17 states the previous election cycle, but only 1 of the states that eliminated excuse requirements passed legislation to do so permanently.⁵⁵

In addition, eight states still required voters to obtain a witness signature or notary to cast a mail ballot. And in 28 states, ballots could still be rejected for technical defects unrelated to voter eligibility, without any notice or opportunity to correct the issue after Election Day.⁵⁶ Three closely contested states — Iowa, Ohio, and Texas — also limited the use of secure ballot drop boxes for voters to submit their absentee ballots. Similarly, Pennsylvania tossed thousands of votes from eligible voters who did not place their absentee ballots in a so-called “privacy sleeve” (an extra envelope that encases a ballot within a mailing envelope).⁵⁷ Barriers to mail voting had a disproportionately negative impact on Black and brown voters.⁵⁸ And they would have likely disenfranchised far more people had voter mobilization not been so high.

In the face of ongoing efforts to unreasonably limit mail voting options, the For the People Act would make concrete improvements to guarantee all voters reasonable, secure access to this method for casting a ballot.

To start, the act requires states to give every voter the option to vote by mail. It also removes a key barrier to accessing mail voting by requiring prepaid postage for all election materials, including registration forms and ballot applications. In addition to making it easier to request a mail ballot, the act simplifies the process of returning the ballot by requiring states to provide drop boxes for federal races, as well as by clarifying that all voted mail ballots should be carried free of postage. In states where most or all voters vote by mail, easy access to drop boxes is considered a best practice, as drop boxes are secure and convenient, enabling a speedier ballot delivery than the postal service. In 2016, a majority of voters in Colorado (73 percent), Oregon (59 percent), and Washington (65 percent), — all “vote at home” states — chose to return their ballots to a physical location rather than send them via mail.⁵⁹

The act would also require states to provide voters with a way to track their mail ballot and confirm its receipt. The ability to track a ballot is important for election security, as election officials can locate lost ballots. Likewise, it ensures that every valid vote is counted by empowering voters to confirm the arrival of their ballot.⁶⁰ The For the People Act allows states to access funds allocated in the

Help America Vote Act to develop such a program.

Many election officials support the expansion of mail voting.⁶¹ In addition to easing access to the ballot, increased mail voting lightens the administrative burden on our in-person voting systems. If more people can vote early by mail, that means fewer voters have to wait in line at the polls. Election officials and experts agree that mail voting is highly secure. All mail ballots are marked by hand, which means there is a paper trail to enable effective post-election audits.⁶² Enhanced mail voting can lead to a smoother election experience for voters and officials alike.

Institute Nationwide Early Voting

Every year, Americans across the country struggle to get to the polls on Election Day. Full-time jobs, childcare needs, disabilities, and other factors prevent them from traveling to their polling place to cast a ballot. Sometimes, even after making the time and the journey, long lines cause them to turn away. We should alleviate this problem by guaranteeing a minimum two-week period for early voting in federal elections.

Holding elections on a single workday in mid-November is a relic of the 19th century. It was done for the convenience of farmers who had to ride a horse and buggy to the county seat in order to cast a ballot.⁶³ This no longer works for millions across the country. Early voting helps to modernize the electoral process to make it easier for hardworking Americans to get to the polls. It also helps to minimize crowding at polling places.

Forty-five states and the District of Columbia offered some opportunity to vote in person before Election Day in 2020. More than a dozen of those states offer early voting for a period comparable to or greater than the two-week period leading to Election Day required by the For the People Act.⁶⁴ But the absence of a national standard means that some states have few or inconsistent early voting hours. Other states have engaged in politicized cutbacks to early voting. Over the past decade, multiple states have reduced early voting days and/or sites used disproportionately by Black voters, such as by eliminating early voting on the Sunday before Election Day. Federal courts have struck down these kinds of early voting cutbacks in North Carolina and Wisconsin because they were intentionally discriminatory.⁶⁵

The For the People Act will make voting more manageable by requiring that states provide two weeks of early voting and equitable geographic distribution of early voting sites. A guaranteed early voting period will reduce long lines at the polls and ease the pressure on election officials and poll workers on Election Day. It will also make it easier for election officials to spot and solve prob-

lems like registration errors or voting machine glitches before they impact most voters. For these reasons, election officials report high satisfaction with early voting. Early voting is popular with voters too, with study after study showing a significant positive effect on voter satisfaction.⁶⁶

Early voting is a critical element of a convenient and modern voting system. A national standard is long overdue.

Protect Against Deceptive Practices

Attempts to suppress voting through deception and intimidation remain all too widespread. Every election cycle, these tactics are documented by journalists and nonpartisan Election Protection volunteers.⁶⁷ This is not a new problem, but social media platforms make the mass dissemination of misleading information easy and allow for perpetrators to target particular audiences with disturbing precision. In 2016, they were especially prevalent, and not just on the part of domestic actors. Russian operatives also engaged in a concerted disinformation and propaganda campaign over the internet that aimed, in part, to suppress voter turnout, especially among Black voters.⁶⁸ We should increase protections against such efforts.

While federal law already prohibits voter intimidation, fraud, and intentional efforts to deprive others of their right to vote, existing laws have not been strong enough to deter misconduct. Moreover, no law specifically targets deceptive practices, nor is there any authority charged with investigating such practices and providing voters with corrected information.

The For the People Act protects voters from deception and intimidation in three ways. First, it increases criminal penalties for false or misleading statements, as well as intimidation, aimed at impeding or preventing a person from voting or registering to vote. Second, it empowers citizens to go to court to stop voter deception. Third, it blunts the effect of deceptive information by requiring designated government officials to disseminate accurate, corrective information to voters. These provisions will give federal law enforcement agencies and private citizens the opportunity to stop bad actors from undermining our elections.

Campaign Finance

We also need to overhaul the role of money in politics. Thanks in part to *Citizens United v. FEC* and other harmful court decisions, a small class of wealthy donors has achieved unprecedented clout in American elections.⁶⁹

That distorts our democracy and undermines the will of American voters. We should pass reforms to counteract the worst effects of *Citizens United* and amplify the voices of everyday Americans in our campaigns.

Small Donor Public Financing

To truly counteract the worst effects of *Citizens United*, we need to create a small-donor public financing system for federal elections. This reform will give candidates a viable option to fund their campaigns without relying on wealthy campaign donors and enable working Americans to increase the financial support they can provide to candidates who champion their policy preferences.

America's system of privately financed campaigns gives a small minority of wealthy donors and special interests unparalleled sway. Super PACs — political committees that can raise and spend unlimited funds thanks to *Citizens United* — have raised more than \$8 billion to spend on influencing elections.⁷⁰ As of 2018, roughly \$1 billion had come from just 11 people.⁷¹ Dark money groups that keep their donors secret, but which we know are funded by many of the same donors who back super PACs, have spent well over \$1 billion more.⁷² Overall, in the decade since *Citizens United*, donors who give more than \$100,000 have come to dominate federal campaign fundraising. Even during the supposed small donor boom of the 2018 midterms, the roughly 3,500 donors who contributed at least \$100,000 easily outspent all individual small donors (of \$200 or less), who numbered at least 7 million.⁷³ In fact, while the number of small individual donors has increased in recent years in absolute terms, their total share of federal campaign spending has remained flat, accounting for about 20 percent of total donations.⁷⁴ In the two most recent midterm elections, the top 100 super PAC donors gave almost as much as all the millions of small donors combined.⁷⁵

The outsized role of large campaign donors forces candidates to spend an inordinate amount of time focused on their concerns. One party fundraising presentation from several years ago suggested that new representatives spend four hours a day soliciting large contributions.⁷⁶ As Senator Chris Murphy of Connecticut noted of the hours he spent calling donors, “I talked a lot more about carried interest inside of that call room than I did at the supermarket. [Wealthy donors] have fundamentally different problems than other people . . . And so you're hearing a lot about problems that bankers have and not a lot of problems that people who work in the mill in Thomaston, Conn., have.”⁷⁷

Unsurprisingly given this dynamic, researchers find that government policy is much more responsive to the preferences of the wealthy and business interest groups than

those of average citizens.

In 2017, for example, Congress passed a \$1.5 trillion corporate tax overhaul, an avowedly donor-driven initiative that enjoyed tepid public support at best.⁷⁸ The tax bill made it over the finish line in part because of explicit warnings that “financial contributions will stop” if it failed to pass.⁷⁹ There are many other examples of government policy aligning more with the preferences of the donor class than with those of most other Americans, especially with respect to issues related to wealth inequality, like wages, housing, and financial regulation.⁸⁰

The clout that donors wield in our political system has contributed to a sense of powerlessness on the part of millions of everyday Americans. Overwhelming majorities tell pollsters that corruption is widespread in the federal government, that they believe people who give a lot of money to elected officials have more influence than others, that money has too much influence in political campaigns, and that they blame money in politics and wealthy donors for dysfunction in the U.S. political system.⁸¹

The central role of wealthy private donors poses special challenges for communities of color. At the highest contribution levels, the donor class has long been overwhelmingly white (and disproportionately male).⁸² One consequence is that policies that would disproportionately benefit people of color, such as raising the minimum wage, tend to be much more popular with ordinary people than with influential political donors.⁸³ The cost of campaigns is also a barrier to people of color running for office, especially women.⁸⁴ In 2018, Black women running for Congress raised only a third of what other female candidates received from large donors.⁸⁵ Facing these structural barriers, potential candidates often decline to run at all — as one operative notes, “[e]specially for black women, raising money is oftentimes a major deterrent to why they don't get into politics or run for election.”⁸⁶

The For the People Act addresses these problems head-on by amplifying the voices of the everyday voters, primarily through small donor matching. Small donor matching is a pathbreaking solution to the problem of big money in politics. While its potential may be profound, the basics of this system are simple. Candidates opt into the system by raising enough small start-up donations to qualify and accepting certain conditions, such as lower contribution limits. Donors who give to participating candidates in small amounts will then see their contributions matched by public money. The For the People Act would match donations to participating House and Senate candidates of \$1-\$200 at a six-to-one ratio, the same ratio used until recently in New York City's highly successful program.⁸⁷

Small donor matching has a long and successful history in American elections. It was first proposed more than a century ago by President Theodore Roosevelt. Congress incorporated a one-to-one small donor match for prima-

ries into the presidential public financing system enacted in 1971. The vast majority of major party presidential candidates from 1976 to 2008 used matching funds in their primary campaigns. Thanks to the presidential public financing system, Ronald Reagan was reelected by a landslide in 1984 without holding a single fundraiser. Two years later, the bipartisan Commission on National Elections concluded that “public financing of presidential elections has clearly proved its worth in opening up the process, reducing the influence of individuals and groups, and virtually ending corruption in presidential election finance.”⁸⁸

Small donor matching has also found success at the state level, where it has been adopted in a wide variety of jurisdictions — including most recently in New York State.⁸⁹ The system that has been studied the most is New York City’s, which has existed since the 1980s and currently matches donations of up to \$175.⁹⁰ The vast majority of city candidates participate.⁹¹ Studies of the 2009 and 2013 city elections found that participating candidates took in more than 60 percent of their funds from small donors and the public match.⁹² These donors are far more representative of the real makeup of New York than big donors in terms of race, income, education level, and geographic location.⁹³ Candidates who participate in the small donor matching program also raise significantly more money from donors in their own districts than other candidates running in the same areas.⁹⁴

Along with expanding the donor pool, the city’s small donor matching system has also helped more diverse candidates run. These include the city’s first Black mayor and New York State’s first female and first Black elected attorney general, who began her career on the city council.⁹⁵

The For the People Act’s small donor matching provisions would transform campaign fundraising in federal elections. They would allow every candidate to power their campaign with small donations; recent Brennan Center studies of congressional fundraising found that almost all congressional candidates would be able to raise as much or more as they do under the current system, and that the greatest benefits would go to female candidates of color.⁹⁶

The For the People Act accomplishes this transformation at no cost to taxpayers — the public match is instead funded primarily by a small surcharge on criminal and civil penalties assessed against corporate wrongdoers. And even if this were not the case, the price tag is exceedingly modest — roughly 0.01 percent of the overall federal budget over ten years.⁹⁷ The reality is that campaigns cost money, which must come from somewhere. When wealthy donors and special interests fund our campaigns, they expect something in return. Taxpayers are too often the ones left to pay the real bill.⁹⁸ We need a system that will create greater incentives to enact policies that benefit

all Americans. The For the People Act’s matching program represents the best hope for bringing such a change about.

In addition to small donor matching, the For the People Act also creates a pilot program to provide eligible donors with \$25 in “My Voice Vouchers” to give to congressional candidates of their choice in increments of \$5. While less common, vouchers are another promising type of small donor public financing, one that is especially beneficial for Americans who cannot afford to make even small donations. Voters in the city of Seattle overwhelmingly passed a voucher program in 2015, which has brought thousands of new donors into the political process, most of whom are women, people of color, and/or younger and less affluent than the city’s overall donor pool.⁹⁹

Finally, the For the People Act revamps the presidential public financing system, which currently provides matching funds to primary candidates and block grants to general election nominees. Despite its initial success, that system ultimately failed because it did not afford candidates sufficient funds to compete in light of the dramatic growth in campaign costs.¹⁰⁰ The For the People Act addresses this problem by increasing the primary match to a six-to-one ratio, providing matching funds to party nominees in the general election and repealing burdensome limits on how much participating candidates can spend.

Shoring Up Other Critical Campaign Finance Rules

We must also fortify other critical campaign finance rules to curb dark money, counter foreign interference in U.S. elections, and make it harder to sidestep campaign contribution limits. These are some of the biggest challenges for our campaign finance system. As recently as 2006, almost all federal campaign spending was raised in accordance with federal contribution limits and fully transparent. But *Citizens United* made it possible for new types of entities to spend limitless funds on electoral advocacy — including super PACs and dark money groups that are not required to publicize their sources of funding.¹⁰¹ As noted, such groups have spent billions on federal elections, much of it coming from a handful of billionaire megadonors. All of this spending tends to be concentrated in the closest races. One Brennan Center study of the 2014 midterms showed that more than 90 percent of dark money spent on Senate races that year was concentrated in the eleven most competitive contests.¹⁰²

Dark money is an especially troubling phenomenon. The lack of donor disclosure deprives voters of critical information about who is trying to influence them and what those spenders want from the government. It is donor disclosure, as the *Citizens United* court itself

pointed out, that allows voters to determine whether elected leaders “are in the pocket of so-called ‘moneyed interests.’”¹⁰³

More recently, it has come to light that this lack of transparency also provides multiple avenues for foreign governments and nationals to meddle in the American political system. Dark money is one such avenue. For instance, as of 2020, there was an ongoing investigation into ties between the Russian government and the National Rifle Association, a 501(c)(4) organization that spent tens of millions of dollars in dark money on the 2016 presidential race.¹⁰⁴

Russian operatives in the 2016 election also took advantage of weak disclosure rules for paid internet ads. Overall, political advertisers spent \$1.4 billion online in the 2016 election, almost eight times what they spent in 2012; one projection estimates that their spending increased to \$1.8 billion in the 2020 cycle.¹⁰⁵ Online ads are cheap to produce and disseminate instantly to vast potential audiences across great distances without regard for political boundaries. The Russian government’s efforts — documented, among other places, in the Mueller Report — focused on stoking and amplifying social discord in the U.S. electorate; lowering turnout (especially among Black voters); and, once Donald Trump became the Republican nominee, helping him defeat Hillary Clinton.¹⁰⁶ Moscow’s efforts in 2016 may serve as a blueprint for other malefactors. As former Homeland Security Secretary Jeh Johnson put it, “The Russians will be back, and possibly other state actors, and possibly other bad cyber actors.”¹⁰⁷ Indeed, disinformation campaigns sponsored by the Russian, Chinese and other foreign governments appear to have been widespread in 2020 and will likely be a feature of our elections for the foreseeable future.¹⁰⁸

Beyond questions of transparency, there is also the problem of candidates working closely with outside spenders, including both super PACs and dark money groups, to circumvent contribution limits. The *Citizens United* Court wrongly assumed this would not happen. It was the very “absence of prearrangement and coordination” that the Court thought would make outside spending not particularly valuable to candidates, and thus not a significant corruption risk. That is why, unlike direct contributions to candidates, outside spending cannot be limited. But even if one accepts the Court’s flawed reasoning, the reality is that a great deal of outside spending is anything but independent. In 2016, for example, most presidential candidates had personal super PACs run by top aides or other close associates, whose only purpose was to get the candidate elected and for which the candidate often personally raised funds or even appeared in ads. These entities are also becoming increasingly common in Senate and House races; the trend continued in 2020.¹⁰⁹ All of these factors have rendered campaign contribution limits virtually meaningless.

The For the People Act takes several key steps to deal with these problems. First, it closes legal loopholes that have allowed dark money to proliferate by requiring all groups that spend significant sums on campaigns to disclose the donors who pay for that spending. Second, it expands transparency requirements to apply to online campaign ads on the same terms as those run on more traditional media. It also strengthens the “paid for” disclaimers that are required to be included in such ads. And it requires the largest online platforms, with over 50 million unique visitors per month, to establish a public file of requests to purchase political ads akin to the file broadcasters have long been required to maintain.¹¹⁰ Finally, it tightens restrictions on coordination between candidates and all outside groups that can raise unlimited funds. These are valuable reforms that, like small donor public financing, will help blunt the worst effects of *Citizens United* and bring greater accountability to our campaigns.

Overhaul the FEC

A third important priority is to overhaul the dysfunctional Federal Election Commission, which has failed to meaningfully enforce existing rules and would almost certainly struggle to implement other ambitious reforms.

The FEC’s structure dates back to the 1970s and was designed to prevent the agency from taking any decisive action without bipartisan agreement among its commissioners. No more than three of its six members can be affiliated with any one party, and at least 4 votes are required to enact regulations, issue guidance, or even investigate alleged violations of the law. By longstanding tradition, each of the two major parties takes half the FEC’s seats.¹¹¹ For much of 2019 and 2020, the Commission did not even have a quorum of commissioners, because only 3 of its 6 seats were occupied.¹¹²

The FEC’s design dates back to a time when disagreements over the government’s role in regulating money in politics did not necessarily track with partisan affiliation. Ordinary Americans of all political stripes still overwhelmingly support strong campaign finance laws, but party elites are now sharply divided, which has left the commission mired in gridlock.¹¹³ Even before it lost its quorum, the commission routinely deadlocked along party lines over whether to pursue significant campaign finance violations — often after sitting on allegations for years without even investigating them. Its process for issuing new regulations had also virtually ground to a halt. Commissioners were increasingly unable to agree even on how to answer requests for interim guidance received through the commission’s advisory opinion process, leaving candidates, parties, and others to decipher the law for themselves without assistance.¹¹⁴

FEC dysfunction has played a critical role in the

creation of many of our political system's worst problems, including dark money, rampant collaboration between candidates and supposedly independent outside groups, and many of the gaps in the law that increase our vulnerability to foreign interference in our campaigns.¹¹⁵ As a bipartisan group of lawmakers wrote President Trump in 2018, a dysfunctional FEC “hurts honest candidates who are trying to follow the letter of the law and robs the American people of an electoral process with integrity.”¹¹⁶ If not addressed, the commission's problems could stymie implementation of the other ambitious reforms in the For the People Act. Moreover, the agency's inability to enforce campaign finance laws contributes to a broader culture of impunity at a time of eroding respect for the rule of law and democratic values more generally.¹¹⁷

The For the People Act addresses the main flaws of the FEC through several targeted changes. It curtails gridlock by reducing the number of commissioners from six to five, with no more than two affiliated with any party — effectively requiring one commissioner to be a tie-breaking independent. It also provides the commission with a real, presidentially appointed chairperson¹¹⁸ to serve as its chief administrative officer. And it ends the practice of allowing commissioners to remain in office indefinitely past the expiration of their terms, which has given Congress and the president an excuse to avoid appointing new members, likely contributing to the agency's recent loss of its quorum.¹¹⁹ Finally, the For the People Act streamlines the commission's enforcement process by giving its nonpartisan staff authority to investigate alleged campaign finance violations and dismiss frivolous complaints.¹²⁰

All of these changes are designed to bring the FEC's structure more in line with that of other important federal regulators. Critically, however, the For the People Act also contains strong safeguards to protect a revitalized FEC from becoming a tool for partisan overreach.

For instance, the For the People Act seeks to ensure partisan balance on the new FEC by providing that nominees to seats on the commission are considered affiliated with a party if they have had any connection to the party — including as a registered voter, employee, consultant, or attorney — within the previous five years. That will minimize the risk of the Senate confirming a “wolf in sheep's clothing” — i.e., someone trying to disguise their true partisan leanings.¹²¹ It also creates a new, bipartisan vetting process for nominees. And it provides for more robust judicial oversight of the enforcement process. Ending the ability of commissioners to remain indefinitely past the expiration of their terms will also be a safeguard against excessive partisanship, since holdover commissioners are more subject to pressure from the president and Congress, who have the power to replace them at any time.¹²²

These measures provide significantly more formal protection than exists under current law. They are part of an overall package of sensible reforms that would help

ensure that the campaign finance laws we have on the books will be fairly and effectively enforced.

Redistricting Reform

Extreme partisan gerrymandering is another threat to our democracy's long-term health. We should require independent citizen commissions for congressional redistricting; outlaw partisan gerrymandering and establish other clear criteria for drawing lines; and make the redistricting process more transparent and participatory.

The need for redistricting reform is urgent. Extreme gerrymandering has reached levels unseen in the last 50 years.¹²³ As a result, shifts in political currents have had virtually no electoral impact in the most heavily gerrymandered states. For example, in 2018 — a political tsunami year for Democrats — no districts changed parties in Ohio and North Carolina, two states with extremely biased maps. Despite the fact that Democrats earned nearly half the vote in both states, they won only a quarter of the seats. The overwhelming majority of the seats that did change parties in 2018 — 72 percent — were drawn by commissions and courts instead of partisan legislatures.¹²⁴ A Democratic gerrymander in Maryland was proven to be just as unbreakable in the Republican wave of 2014.¹²⁵ Redistricting abuse is a bipartisan problem — both parties will draw districts that serve their partisan ends if given the opportunity.

Too often, communities of color bear the brunt of these efforts. When Republican-drawn maps in North Carolina, Texas, and Virginia were successfully challenged on the grounds that they discriminated against minority voters, Republicans defended the maps by arguing that politics, rather than race, had been the driving force behind their maps. Likewise, Democrats in Maryland rejected a congressional map that would have given Black voters additional electoral opportunities because that would have created an additional Republican seat.¹²⁶ Without a rule that makes disadvantaging voters of color for partisan gain illegal, this type of discrimination will continue and grow.

The For the People Act offers bold and comprehensive solutions to the problem of gerrymandering. It requires states to use independent redistricting commissions to draw congressional maps and imposes a uniform set of rules for how districts should be drawn, expressly outlawing partisan gerrymandering and prioritizing criteria like keeping geographically concentrated communities with shared interests (often referred to as “communities of interest”) together.¹²⁷ Depending on when the For the People Act is passed, these reforms could be phased in, with the ban on partisan gerrymandering and requirement for uniform map-drawing rules becoming effective immediately. In this case, the independent commission requirement would take effect later if there is not enough

time to set commissions up for the next round of redistricting ahead of the 2022 mid-term elections.

The experience of states like Arizona and California shows that reforms work. California went from having a congressional map that was one of the least responsive to shifts in public opinion to one of the most. And California's maps did not just improve political fairness — they also kept communities of interest together, increased representation for communities of color, and expanded opportunities for competition.¹²⁸

It is little wonder that these reforms are popular among voters. In 2018, a record-high number of states passed redistricting reform for congressional and/or legislative districts. In Ohio, one proposal carried every single congressional district in the state by a supermajority. Reforms in Colorado and Michigan also passed overwhelmingly, with more than 60 percent of the vote statewide.¹²⁹ In 2020, two-thirds of Virginia voters passed a redistricting reform initiative to create a bipartisan commission composed of lawmakers and citizens.¹³⁰

The For the People Act builds on what has been proven to work. Commissions would contain equal numbers of Republican, Democratic, and unaffiliated and third party commissioners, with voting rules that ensure that no one group would be able to dominate the redistricting process. Additionally, all potential commissioners would be screened for conflicts of interest to ensure that they do not have a personal stake in the outcome.

The act's establishment of a clear set of map-drawing rules, listed in the order in which they are to be applied, is another important and groundbreaking change.¹³¹ Federal law currently has next to no rules governing how districts should be drawn.¹³² Likewise, most states (with a handful of exceptions) have few guidelines governing congressional redistricting. This has allowed abuses to run rampant. The act's ban on partisan gerrymandering and enhanced protections for communities of color and communities of interest directly address the most egregious of these abuses of the past decade, like the intentional dilution of political power of communities of color mentioned earlier.

Finally, the For the People Act transforms what has historically been an opaque process into one that is transparent and participatory. Commission business would be conducted in open public meetings and subject to oversight. Data would be made available and all official communications would be subject to disclosure. Community groups and members would get a say through testimony and other feedback mechanisms. Each commission would be required to show its work and ensure fairness by issuing a detailed report before taking a final vote on a plan. In short, redistricting would no longer be done in backroom deals.

Congress has the authority to fix congressional redistricting.¹³³ As the Supreme Court recognized in 2019, "The Framers provided a remedy [in the Constitution for redistricting abuses through the] power bestowed on Congress to regulate elections, and . . . to restrain the practice of political gerrymandering."¹³⁴ Over the years, Congress has repeatedly exercised its power under Article I, Section 4 to do just that.¹³⁵

The changes in the For the People Act will dramatically improve congressional representation for all Americans, combining best practices to ensure fair, effective, and accountable representation. Congress plainly has the power to enact these changes and should do so without delay.

Election Security

We must also take critical steps to improve the security and reliability of our election infrastructure.

The 2016 election put a spotlight on election infrastructure security, after foreign adversaries and cybercriminals successfully breached state voter registration systems and election night results reporting websites.¹³⁶ While there do not appear to have been similar attacks against our election infrastructure, foreign adversaries continue to demonstrate an interest in election interference, and recent hacks into software used throughout the federal government show that such attacks are growing increasingly sophisticated.¹³⁷

Despite these clear threats, six states continue to use voting machines that have no paper backup; security experts have consistently argued that paper ballots are a minimum defense necessary to detect and recover from cyberattacks and technical failures in voting machines.¹³⁸ Of the states that do use paper ballots, too few conduct sufficient reviews of their paper backups to audit their election results; private voting system vendors are not required to report security breaches, which often leaves our election administrators and the public in the dark; and election officials across the country say they lack the resources to implement critical election security measures.¹³⁹ Unfortunately, our election security is only as strong as our weakest link.

The For the People Act significantly bolsters the security and resilience of our nation's election administration infrastructure. Among the most critical reforms, it requires states to replace unsecure paperless voting systems, promotes robust audits of electronic election results, and imposes new requirements for private election system vendors.

Replacing Paperless Voting Systems

First and foremost, the For the People Act mandates the replacement of all paperless electronic voting machines with machines that require an individual paper record of

each vote. Top security experts — from the National Academies of Sciences, Engineering, and Medicine; the national intelligence community; academia; and industry — agree that replacing paperless voting systems is a top priority. This step is critical to improving election security because, as the National Academies put it, “Paper ballots form a body of evidence that is not subject to manipulation by faulty software or hardware and . . . can be used to audit and verify the results of an election.”¹⁴⁰ Without that record and check, software manipulation or a bug could change an election result without detection. Further, as Virginia showed in 2017 when it was forced to replace paperless systems just months before a high-profile gubernatorial election after learning of serious security vulnerabilities in its systems, this transition can easily be accomplished in the time frame provided in this act.¹⁴¹

Promoting Robust Audits of Election Results

The For the People Act also provides funds for states to implement robust audits of election results using statistical models to ensure that a sufficient number of paper ballots are checked to corroborate the electronic vote tallies (known as “risk-limiting audits”).¹⁴² While paper records will not prevent programming errors, software bugs, or the insertion of corrupt software into voting systems, risk-limiting audits use these paper records to detect and correct any election outcomes impacted by such abnormalities. These audits are quickly growing in popularity. Twelve states now require risk-limiting audits or piloted the use of these audits for the 2020 election.¹⁴³

Election System Vendors Oversight

The For the People Act provides for greater federal oversight of the private vendors who design and maintain the election systems that store our personal information, tabulate our votes, and communicate important election information to the public. The Brennan Center has documented numerous instances of voting system failures that could have been prevented had vendors notified their clients of previous failures in other jurisdictions using the same voting equipment.¹⁴⁴ Among other things, any vendors who receive grants under the act would be

required to (1) certify that the infrastructure they sell to local election jurisdictions is developed and maintained in accordance with cybersecurity best practices; (2) verify that their own information technology is maintained in accordance with cybersecurity best practices; and (3) promptly report any suspected cybersecurity incident directed against the goods and services they provide under these grants.

Ethics

Finally, we must establish stronger ethics rules for all three branches of government. These provisions would be an essential step towards shoring up eroding constraints on self-dealing at the highest levels of government.¹⁴⁵ The For the People Act addresses this challenge. Among the most important changes, it

- requires the president and vice president to adhere to the same broad ethical standards as the millions of government employees who work under them, consistent with voluntary practices to which every president going back to the 1960s adhered until President Trump took office;
- requires the president, vice president, and candidates for those offices to disclose their tax returns, also consistent with longstanding voluntary norms;
- strengthens the Office of Government Ethics, which oversees ethical compliance in the executive branch;
- strengthens safeguards against congressional conflicts of interest;
- strengthens constraints on the “revolving door” between government and industry that prevent former officials from unduly profiting off their time in public service; and
- requires a code of ethics for the United States Supreme Court.

The For the People Act is a comprehensive and appropriately aggressive set of reforms that would revitalize and improve our democracy. Americans expect a system that works for everyone. Congress must answer that call by passing this groundbreaking legislation.

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- 92** Michael Malbin, Testimony before the New York City Campaign Finance Board, Campaign Finance Institute, February 13, 2013, [http://www.cfinst.org/Press/PReleases/14-02-13/Testimony before the New York City Campaign Finance Board Says Small Donor Matching Funds a Success but the City Should Look at Changes Moving Forward.aspx](http://www.cfinst.org/Press/PReleases/14-02-13/Testimony%20before%20the%20New%20York%20City%20Campaign%20Finance%20Board%20Says%20Small%20Donor%20Matching%20Funds%20a%20Success%20but%20the%20City%20Should%20Look%20at%20Changes%20Moving%20Forward.aspx). Candidates who did not participate in the public financing system raised most of their money from donors of \$1,000 or more. Michael J. Malbin, Peter W. Brusoe and Brendan Glavin, *What Is and What Could Be: The Potential Impact of Small-Donor Matching Funds in New York State Elections*, Campaign Finance Institute, 2013, 3, http://www.cfinst.org/pdf/state/NY/CFI_Impact-Matching-on-NYS.pdf.
- 93** As New York State Senator (and former City Council Member) Jose Serrano explained, "Imagine if you could spend a little less time [making fundraising calls], and a little more time in someone's living room, listening to conversations that they have, hearing the ideas that they may have. You can become a much more engaged and responsive candidate and hopefully elected official." DeNora Getachew and Ava Mehta, eds., *Breaking Down Barriers: The Faces of Small Donor Public Financing*, Brennan Center for Justice, 2016, 29, https://www.brennancenter.org/sites/default/files/publications/Faces_of_Public_Financing.pdf. Councilmember Eric Ulrich, a Queens Republican, makes a similar point: "The matching funds program has allowed for the voice of small donors and regular people to have a greater say in outcomes. . . That has helped us transform how we serve our constituents. I have no choice but to listen to and engage the [constituents] in an overall discussion about what direction the city should go." See Getachew and Mehta, *Breaking Down Barriers*, 34. The comparison to state races that do not have small donor matching is notable. One study the Brennan Center conducted found that participating city candidates raised money from 90 percent of the city's census blocs, as compared to roughly 30 percent for state assembly candidates (who do not receive public matching dollars) running in the same areas. See Elisabeth Genn et al, *Donor Diversity Through Public Matching Funds*, Brennan Center for Justice and Campaign Finance Institute, 2012, 4, www.brennancenter.org/sites/default/files/legacy/publications/DonorDiversityReport_WEB.PDF.
- 94** Nirali Vyas, Chisun Lee, and Joanna Zdany, "The Constituent-Engagement Effect of Small Donor Public Financing: A Statistical Comparison of City Council (2017) and State Assembly (2018) Fundraising in New York City," Brennan Center for Justice, Sept. 9, 2019, <https://www.brennancenter.org/our-work/research-reports/constituent-engagement-effect-small-donor-public-financing-statistical>.
- 95** As New York State Attorney General Letitia James put it after being elected New York City public advocate: "The public financing system in New York City gave me the opportunity to compete and succeed, allowing me to represent individuals whose voices are historically ignored." Getachew and Mehta, *Breaking Down Barriers*, 7. See also "The Case for Public Financing in New York."
- 96** Ian Vandewalker and Kevin Morris, "The Reform Law Needed to Counter Citizens United: H.R. 1," Brennan Center for Justice, January 21, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/reform-law-needed-counter-citizens-united-hr-1>; Chisun Li, Nirali Vyas, Gregory Clark, *Small Donor Public Financing Could Advance Race and Gender Equity in Congress*, Brennan Center for Justice, October 15, 2020, <https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-could-advance-race-and-gender-equity>. Although there is currently a dearth of public research, it likely that most Senate candidates would also fare as well or better under the act's small donor matching system as they do now.
- 97** Fowler and Weiner, "Understanding H.R.1," 6.
- 98** As one political scientist recently put it: "There are no free lunches. If the public doesn't foot the cost of political campaigns, wealthy donors and lobbyists will. And they will get something in return. And it will be far more than what they paid in. That's how the system works. If we enact public financing through a small-donor matching system, the public will also get something in return. And it will be far more than what they paid in. That's how the system works." See Lee Drutman, "Democrats' Small-Donor Campaign Finance Proposal is a Great Deal for Taxpayers," *Vox*, January 14, 2019, <https://www.vox.com/polyarchy/2019/1/14/18182579/democrats-hr1-donor-campaign-finance-proposal-taxpayers>.
- 99** Win Win Network and Every Voice Center, *First Look: Seattle's Democracy Voucher Program*, 2017, 2, 3–5, <https://everyvoice.org/wp-content/uploads/2018/08/2017-11-15-Seattle-Post-Election-Report-FINAL.pdf>.
- 100** Skaggs and Wertheimer, *Empowering Small Donors*, 11.

- 101** Daniel I. Weiner, Citizens United *Five Years Later*, Brennan Center for Justice, 2015, 7, https://www.brennancenter.org/sites/default/files/analysis/Citizens_United_%20Five_Years_Later.pdf.
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