

White Paper: Self-Enrichment in Public Office

Preface

Take Back Our Republic congratulates President-elect Donald Trump, Secretary Hillary Clinton, and the other candidates on a hard fought campaign. Our hope, as we emerge from this intense election cycle, is that our nation's new leadership will take seriously the importance of influence reform. In this paper, we look at the numerous ways that politicians are influenced by their own self-enrichment. We briefly outline simple proposals that would help fix the problem. It is our belief that this can generate an ongoing conversation on this important topic. To that end, we plan to periodically update this paper with new additions to highlight new avenues for reform, new examples of excess, and new solutions to the problem. Please continue to check www.takeback.org for new educational papers, as well as updates to this one.

Introduction

When crafting the U.S. Constitution, delegates to the Constitutional Convention sought to ensure that U.S. politicians would not abuse public office for private gain. In England, they knew, such abuse was all too common, and they wanted better for the United States.

During the long summer of 1787, they discussed at length how best to prevent such abuse. Government officials, they decided, would not be allowed to accept gifts from foreign governments without the permission of Congress.¹ Members of Congress would be forbidden from creating paid jobs and then immediately taking those jobs for themselves.² Officials who accepted bribes would be removed from public office and disqualified from future service.³ And government spending would be subject to public scrutiny, with regular reports of receipts and expenditures published from time to time.⁴ Through these and other provisions, the delegates hoped to keep politicians focused on promoting the public good.

Unfortunately, the delegates did not anticipate the rise of expensive campaigns or paid lobbying, and what they sought to avoid has now come to fruition: This country's politicians now commonly enrich themselves and their families through abuse of public office. In doing so, they expose themselves to the influence of wealthy donors, special-

¹ U.S. Constitution, Article 1, Section 9, Clause 8.

² U.S. Constitution, Article 1, Section 6, Clause 2.

³ U.S. Constitution, Article 2, Section 4.

⁴ U.S. Constitution, Article 1, Section 9, Clause 7.

interest lobbyists, and even foreign governments. As a result, they often enact corrupt policies, and Americans pay the price for this corruption.

At Take Back Our Republic, we work to put power and influence back into the hands of the people. In keeping with the Founders' efforts and our most foundational principle, we believe that it is past time that we take a comprehensive approach to the influence self-enrichment has on our government officials.

In recent months, we have seen extensive coverage and accusations about the Clinton Foundation and its operations and entanglements, the lengthy and winding trial(s) of state officials like former Virginia Governor Bob McDonnell who was accused of profiting from his governorship, and the conviction(s) of New York Assembly Speaker, Sheldon Silver, as well as Alabama Speaker Mike Hubbard- whose emails paint him as a public official focused on anything but serving the people of Alabama.⁵ Whether in Washington, DC, in its shadows, in one of the union's bluest states, or in one of its reddest, corruption is a problem.

Meanwhile, these scandals are but a mere tip of the iceberg of officials who see their family's bank accounts increase, their investments balloon, and their post-service earnings skyrocket as they sell influence they gained supposedly serving the people that elected them. The "bought and paid for" attack on politicians has often, sadly, transformed into "bought, paid for, and richer."

Most Americans see political profiteering as yet another reason elected officials cannot be trusted with regard to their motivations or their votes. Influence belongs in the hands of the voters- the American people. In recent years, we have discovered that obtaining wealth may be the one thing that corrupt politicians hold in higher regard than re-election. When the ability to influence those politicians through providing avenues for profiteering exists, our system becomes all the more ripe for corruption.

To address this corruption, we must adapt our laws to present-day circumstances. We at Take Back Our Republic recommend the following:

Stop politicians from using campaign contributions to augment their lifestyles and enrich their families.

Campaigns are meant to be opportunities to express ideas to better the lives of those one seeks to serve. While they are a necessary and often strong expression of democracy, those concerned with corruption in the realm of campaigns know that opportunities for corruption are manifold. Traditionally, avenues for corruption largely centered on

⁵ Crowe, JD. June, 03, 2016.

http://www.al.com/opinion/index.ssf/2016/06/mike_hubbards_poor_me_messages.html

politicians who sold out to or extorted special interests and big money to fill their campaign coffers at the expense of serving their constituents. Today, politicians have found ways to take this a step further. Instead of only enriching electoral chances, politicians are using the honor of public service to bolster their personal bank accounts and those of their families. When politicians see their campaign accounts as conduits to their own, the level of dependence on and influence of campaign donors increases, leaving constituents with less of a voice. To limit such corruption, we must ensure that politicians do not put donations to personal use. Here are some practical steps to bring this to an end:

Ban leadership PACs. Leadership PACs are shadowy and suspicious by nature, and you can see why in this Open Secrets description:

“A leadership PAC is a political action committee that can be established by current and former members of Congress as well as other prominent political figures. Leadership PACs are designed for two things: to make money and to make friends, both of which are crucial to ambitious politicians looking to advance their careers. Leadership PACs are used to fund expenses that are ineligible to be paid by campaign committees or congressional offices. Those costs can include travel to raise a politician's profile, for instance. Democratic leadership PACs are also used to fund fellow Democrats' campaigns, especially threatened incumbents or challengers trying to win seats that were previously held by the GOP. Politicians often use their PACs to donate to other candidates because they are considering seeking a leadership position in Congress, a higher office, or leverage within their own party as they show off their fundraising ability.”⁶

Beyond the apparent problems above, there are currently no rules to prohibit personal use of leadership PAC funds by politicians which certainly makes contributions to such entities potentially more influential over politicians looking to enrich themselves.⁷ Additionally, there have been numerous documented instances of seeming quid pro quo contributions from a leadership PAC to a campaign of a colleague only to have the favor returned within days.⁸ Other noted examples of leadership PAC usage includes using those funds to pay for expensive trips or lavish retreats for the office holder and their friends.⁹ In fact, Viveca Novak of the Center for Responsive Politics says that “leadership PACs are little more than slush funds.”¹⁰

This messy form of organization creates a channel for self-enrichment, increased lack of transparency, and additional opportunities for corruption, quid pro quo transfers, and

⁶ Open Secrets. <https://www.opensecrets.org/industries./indus.php?ind=Q03>

⁷ Open Secrets. <https://www.opensecrets.org/action/issues/leadership-pacs/>

⁸ Vivek Novak and John Sugden. October 31, 2014. <http://time.com/3551095/senate-election-campaign-finance-pac/>

⁹ Cheves, John. May 27, 2016. <http://www.kentucky.com/news/politics-government/article80323287.html>

¹⁰ Cheves, John. May 27, 2016. <http://www.kentucky.com/news/politics-government/article80323287.html>

influence leverage. As a result, we believe it would be best to ban leadership PACs as they currently exist. We do applaud Rep. Mike Capuano (D- MA 7th) for attempting to tackle the problem with H.R. 465¹¹ in the 113th Congress, and we support similar efforts or even eliminating leadership PACs altogether.

Stop politicians from collecting interest on loans to their own campaigns.

Loaning to one's campaign is a beneficial and crucial ability for politicians with some means yet not wildly wealthy enough to fight against politicians with more hefty campaign war-chests. It is not a system that was set up to enrich candidates and their families. Unfortunately, that is how the system is being used. In one such case, Rep. Grace Napolitano (D- CA 32nd) was charging her campaign 18% interest on loans which allowed her to profit \$22,000/year. Her excuses for such fees were that the mafia charges those rates and that she wasn't becoming a millionaire or billionaire by such transactions.¹² Such statements are not unique to Napolitano and merely show how out-of-touch many of our politicians have become.

At Take Back Our Republic, we do not believe that the practice of being able to loan one's campaign money should be abolished. We do, however, believe that profiting off such a transaction is wrong and opens the door for significant corruption and profiteering. We urge passage of legislation that will immediately close this loophole.

Place significant limitations on how politicians may use campaign

accounts to pay family members. Many children or spouses of politicians are naturally capable politicians themselves, and they have often been added to the campaign payroll. However, that has led to wide abuses. In one instance, the team at the Government Accountability Institute noted that former Congressman Ron Paul (R-TX) paid six family members a combined total of nearly \$305,000.¹³ Meanwhile, former Congressman Rodney Alexander (R-LA) paid two daughters more than \$130,000 for a campaign that was not even remotely competitive- resulting in a 78% win in a safe district. This congressman failed to even name specific tasks his family members performed when pressed!¹⁴ In another egregious example of using the system to one's advantage, campaign records' show that Rep. Bobby Rush (D-IL) paid his wife \$550,000, while a church he established received ~\$190,000 from his campaign account while more than \$14 million in taxpayer-backed government grants were awarded to a wellness center associated with the church he founded.¹⁵ It is not Take Back Our Republic's view that worthy campaign staff should be unable to make a living

¹¹ 113th Congress. February 4, 2013. <https://www.congress.gov/113/bills/hr465/BILLS-113hr465ih.pdf>

¹² Zajac, Andrew. February 14, 2009. <http://articles.latimes.com/2009/feb/14/local/me-napolitano14>

¹³ Neubauer, Chuck. March 25, 2012. <http://www.washingtontimes.com/news/2012/mar/25/report-campaign-funds-become-a-family-affair/>

¹⁴ Hall, Wynton. October 20, 2013. <http://www.breitbart.com/big-journalism/2013/10/20/cbs-congress-using-slush-funds-to-bankroll-lavish-lifestyle/>

¹⁵ Schoffstall, Joe. July 8, 2016. <http://freebeacon.com/politics/rep-bobby-rush-paid-wife-550k-campaign-funds-kicked-190k-church-founded/>

if they are family members. However, when campaigns become slush funds for the candidate's families, that office holder is all-the-more subservient to his donors and the need to fundraise of serving constituents.

As stated above, we support the free market, and we do not seek to forbid capable political hands from working for those they care about. However, because it is so difficult to separate the finances of spouses, we believe that eliminating the ability to pay a spouse out of campaign funds is a common-sense step. Additionally, we believe that children and other designated relations should be subject to the following restrictions: 1) If such a relative works in the consulting realm with multiple clients, they cannot charge their office-holding relative more for service than they do other clients, and 2) If a relative takes a full-time position with a campaign, he/she may receive no more than a 10% raise from the previous year's tax returns and receive no more than a COLA (cost of living allowance) raise each year for the first five years of full-time employment. While some will argue that this is meddling in the free market as this does not involve government money, it does affect taxpayers when it comes to campaign financing. The level of urgency with which a politician may take in money to pay for the largesse of his/her payments to family members is of grave concern when it could potentially influence the outcome of meaningful legislation.

Restore trust by ending the era of trading time in public service for lucrative lobbying contracts

In the United States, we celebrate our right to elect the politicians who make and enforce our laws. Politicians, we reason, will tend to serve our interests when they depend on us for votes. Indeed, James Madison explained in Federalist No. 52 that the purpose of popular elections is to ensure that politicians are "dependent upon the people alone." However, even though we have popular elections, our politicians often develop dependencies that compete with their dependence upon the people. As discussed above, they often depend on donors to fund their campaigns, or even to subsidize their families and their lifestyles. In addition, as will be shown, politicians, their staff, and their families often depend on lobbyists for lucrative jobs. Such dependence distorts their actions and corrupts public policy. Here are some reforms by which we can prevent such corruption:

Require that members of Congress observe a cooling-off period of six years before working as lobbyists. Many former elected officials are members of the influence industry well before the current cooling off period expires. Former Speaker John Boehner is one such ex-official who now leverages his influence on behalf of those who once lobbied him and his colleagues, and he joined the industry well before the mandated year off. This creates problems. The fact that he is representing many of his biggest contributors over the years is frustrating for voters who are left hoping that the former third man from the presidency chose his actions based on present benefit of the

American people rather than future benefit of himself.¹⁶ However, though we do not argue that former Speaker Boehner has done anything corrupt, there is another issue. A year ago, Boehner was able to threaten, cajole, and strip appointments from those who he will now seek to influence. It is a sharp turn of events for members who will now be influenced by someone they, just a short time ago, took orders from. Again, we are not accusing the former Speaker of anything nefarious. In fact, he is operating within the law. However, it is past time that Congress take seriously its approach to former members entering the influence industry. While we discuss circumvention of existing rules below, it is time to extend the cooling off period so that former members of Congress cannot so quickly trade on their influence to advance legislation that could prove costly to the American people.

While some- including 2016 President-elect Donald Trump, who advocated five years in his noteworthy plan for reform-¹⁷ may hold to less stringent restrictions, we at Take Back Our Republic believe that six years, a full three House terms and one Senate term which provides plenty of time for change to occur, is an appropriate amount of time before a former elected official can enter the influence industry.

While members of Congress are in office, forbid their spouses and children from starting a career as lobbyists; place restrictions on existing lobbying practices. While this paper is largely devoted to preventing politicians from the practice of self-enrichment on the honor we bestow upon them, it is important to prevent their families from “cashing in” on their relationships and thereby influencing policy. We should not think that a father/husband or wife/mother would not be influenced by their spouse or child who is seeking to lobby on a particular issue.

We do not believe it is prudent or lawful to remove an individual’s rights to continue in their vocation that he/she was practicing prior to a relative’s launch of a campaign. However, we do believe a common sense reform is to bar such an individual from lobbying committees of which that relative is a member. Additionally, we believe that family members should be barred from entering the influence industry following and during the election of their immediate relative.

Close loopholes used to circumvent rules. Many defeated or retired office holders have chosen to utilize their connections to land a well-paying job on K-Street or influence peddling.¹⁸ While it is not Take Back’s intention to completely prevent this practice, former elected officials should be held to a higher standard when it comes to

¹⁶ Doggett, Drew. October 6, 2016. <https://sunlightfoundation.com/blog/2016/10/06/as-the-smoke-clears-on-his-career-boehner-cashes-in-thanks-to-lobbying-loopholes/>

¹⁷ Trump, Donald J. October 17, 2016. <https://www.donaldjtrump.com/press-releases/donald-j.-trumps-five-point-plan-for-ethics-reform>

¹⁸ Ho, Catherine. September 12, 2016. <https://www.washingtonpost.com/news/powerpost/wp/2016/09/12/lobbying-registrations-are-down-but-the-influence-industry-is-flourishing/>

registering. Currently, many exploit various loopholes in order to remain off the registration list. In fact, a recent study showed that “Of the 104 former congressional members and staffers whose “cooling off” period ended during the first session of the 114th Congress... 29 [were] already in government relations, “public affairs,” or [serving] as counsel at a firm that lobbies.”¹⁹ Former Senator Tom Daschle even admitted this was, in part, out of a desire to remain viable as a future candidate.²⁰ At Take Back Our Republic, we believe that former elected officials should not so easily be able to parlay the honor of serving the American people into lucrative lobbying deals that allow them and their employer to remain unaccountable. Former members are taking advantage of loopholes to peddle influence and even profit on issues they were involved in while supposedly doing the “people’s business.”²¹ This lucrative field has drawn 47% of the 352 individuals who left Congress alive since 2008 but roughly half of those do not register as lobbyists- instead using other titles associated with the influence industry to skirt the rules.²² Among those who fit this category is former Speaker John Boehner, mentioned earlier, who is set to earn a lucrative living on K Street.²³ This reform, coupled with the aforementioned strengthening of the revolving door restrictions, would keep former elected officials out of the influence industry and prevent avenues for corruption.

Using political speak to justify activities as “not lobbying” when a position is gained to exploit influence gained on the taxpayer’s dime needs to end. If ex-officials want to make financial gains in the industry, they should be forced to register as what they truly are, “lobbyists.” It is time we enhance this definition as it applies to ex-officials working in the influence industry.

Seize opportunities to enact timely, common-sense reforms.

Recent items in the news have caught the attention of countless Americans, bringing numerous new supporters to the cause of reform. Additionally, the nominees of both major parties have spoken of the need for ethics reforms- many of which are noted in this paper. Here are some reforms that we believe need to be enacted under the new administration:

¹⁹ Open Secrets. January 6, 2015. <https://www.opensecrets.org/news/2015/01/coming-out-of-the-cool-as-congress-convenes-former-colleagues-will-soon-be-calling-from-k-street/>

²⁰ Ho, Catherine. September 12, 2016.

<https://www.washingtonpost.com/news/powerpost/wp/2016/09/12/lobbying-registrations-are-down-but-the-influence-industry-is-flourishing/>

²¹ Maggie Severns and Isaac Arnsdorf. September 29, 2016. <http://www.politico.com/story/2016/09/how-evan-bayh-lobbied-but-was-never-a-lobbyist-228870>

²² Arnsdorf, Isaac. July 3, 2016. <http://www.politico.com/story/2016/06/the-lobbying-reform-that-enriched-congress-224849>

²³ Ackley, Kate. September 20, 2016. http://www.rollcall.com/news/boehner-joins-influential-k-street-firm?utm_name=newsletters&utm_source=rollcallheadlines&utm_medium=email

Mandate that top members of the executive branch suspend their financial entanglements. The 2016 major party nominees for president both possessed significant financial ties to an institution that could result in serious conflicts of interest domestically and internationally. While much has been written about the Clinton Foundation, its suspicious connection to the State Department, and the confirmation of continued Clinton involvement in the event of a Hillary presidency,²⁴ not as much attention has been given to the fact that Donald Trump can legally run his opaque and international business from the White House.²⁵ If Trump chooses to continue to run his business, the possibilities for conflict are extensive. On the flip side, renowned ethics lawyer and TBOR Board Member Dr. Richard Painter wrote before the election that the same held true for the other side if Chelsea, who reportedly contacted employees of the Clinton Foundation questioning the appearance of impropriety,²⁶ were to remain on board with the Clinton Foundation.²⁷ While we certainly trust President-elect Trump's intentions to make our country his priority, it is time to put safeguards in place.

While we acknowledge the impossibility of completely removing conflicts of interest held by government officials, we do support efforts to require members of the Executive Branch- President, Vice President, and cabinet appointees- to disentangle themselves from entities that provide a financial conflict of interest. Owners of a private business should be required- by law- to put holdings in a blind trust. Also, though laws are currently on the books, we believe that we must look at existing laws for cabinet officials and come to a consensus that will remove even the appearance of impropriety. This is a bi-partisan issue that can drastically improve the level of trust the American people have in their officials.

Require that politicians' nonprofits disclose their funding sources. Clearly, the Clinton Foundation is a notable example of an organization whose donors are of great interest to the American people. However, it has also been noted that former Senator Bob Dole, Senate Majority Leader Mitch McConnell, and Senator Patrick Leahy are among those who have been seen as possibly influenced by those who give to their favorite projects or namesake entity.²⁸ This represents an unaccountable, untraceable means of influencing some of the most powerful people in the world. Again, we are not accusing the Clintons or these officials of acting inappropriately. However, allowing donors to gain access and influence through this loophole creates great opportunities for corruption.

²⁴ Geier, Ben. August 25, 2016. <http://fortune.com/2016/08/25/chelsea-clinton-foundation/>

²⁵ Mak, Tim. September 21, 2016. <http://www.thedailybeast.com/articles/2016/09/21/donald-trump-can-legally-run-his-company-from-the-oval-office.html>

²⁶ Vogel, Kenneth. October 11, 2016. <http://www.politico.com/story/2016/10/chelsea-clinton-foundation-conflicts-emails-229605>

²⁷ Painter, Richard. August 31, 2016. http://mobile.nytimes.com/2016/08/31/opinion/the-real-clinton-foundation-revelation.html?_r=0&referer=

²⁸ McGehee, Meredith. August 30, 2016. <http://lawnewz.com/high-profile/legalized-corruption-why-hillary-cant-be-prosecuted-for-clinton-foundation-allegations/>

As long as such individuals are in office, donors to their organizations should be reported so that the American people can make appropriate determinations regarding the influence that such contributions, perhaps given in lieu of direct campaign gifts and still aimed at access and influence, may or may not have.

Stop former officials from lobbying on behalf of foreign entities. We believe that it is not too extreme to expect those that serve in the hallowed halls of the U.S. Congress will only ever serve the interests of the American government and its people. However, many former elected officials are opting to use influence gained in public service to fight for the interests of foreign nations. In fact, Politico notes that “of the 1,009 members of Congress who have left Capitol Hill since 1990, 114 of them – just over 11% - lobbied for or otherwise represented a foreign government, foreign-owned company or think tank.”²⁹ Early in 2016, Take Back Our Republic worked to keep foreign governments, entities, and individuals out of our elections by closing a loophole with H.R.4177, and we believe now is the time to end their excess influence and undermining of public trust through employment of former and influential elected officials.

It is our position that no former elected official, who both represented and was paid by the taxpayers, should ever seek financial gain by advocating for the interests of foreign government, entities, or individuals. No current elected official should ever have to wonder whether the words of a formerly assumed patriotic colleague may be tainted because of the hefty check they are receiving from an interested party whose interests may be counter to those of our nation. More importantly, the American voter should be assured that their vote will never pave the way for their representative to one day seek the best interests of a potentially hostile foreign entity.

Close travel and gift loopholes. Despite reforms following the lobbying scandals in the mid-2000s, congressional members still frequently enjoy luxurious trips abroad through numerous loopholes. Non-profits, many of which are phony, and foreign entities, most notably Turkey, which employs former high-profile members as lobbyists, are exploiting the law to garner favor with lawmakers they escort around the world with lavish trips.³⁰ Another issue for which there has been significant calls for reform is the closing of a loophole in House Ethics Rule 25 (Clause 5(a)(3)(O)) that states: "Anything that is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract is acceptable."³¹ This curious

²⁹ Joseph J. Schatz and Benjamin Oreskes. October 3, 2016. <http://www.politico.eu/article/want-to-be-a-foreign-agent-serve-in-us-congress-first/>

³⁰ Goldmacher, Shane. January 10, 2014. <http://www.theatlantic.com/politics/archive/2014/01/lobbyists-are-using-loopholes-fly-lawmakers-around-world/356893/>

³¹ National Taxpayers Union. October 24, 2009. <http://www.ntu.org/governmentbytes/detail/ntu-urges-house-leadership-to-close-gift-loophole-for-government-lobbyists>

exemption creates opportunities for largesse by lobbyists for public universities or local governments.

We must end this practice of seeking and gaining influence through the loopholes in the current system. It is time that legislative action mirror tough talk and finally close the travel and gift loopholes that have no doubt cost taxpayers money through favorable measures to those who have used such loopholes to their advantage.

Halt the practice of enhancing officials' job search process through their elected office. Officials earning salaries paid by the hard work of taxpayers and making votes on their behalf should not use their position to garner favor with potential employers. While reporting is now required once a job offer is made, there are no provisions that govern activity when an official is merely being courted for a position or vice versa. In some cases, elected officials have used taxpayer funds to visit and have taken votes on legislation that would affect those who would be their employer just months later.³²

While some progress has been made regarding government employees,³³ it is beyond disappointing that such steps are not providing the same level of scrutiny for those we elect. We urge Congress to restore integrity to its body by passing legislation that would assure the American people that dollars spent and actions taken by elected officials are done so for the interest of the citizenry, not for the expectation of a well-paying job.

Strengthen the House Ethics Committee.

Time and again, we see elected officials begin to feel entitled, and, sadly, there is very little check on that sense. Consider Rep. Corrine Brown (D-FL 5th) who has been under investigation numerous times and never punished only to continually use the system to make herself richer. Numerous other scandalous politicians have found that the toothless House Ethics Committee struggles to compel witnesses or really inflict any significant consequences.³⁴

Common sense reforms allow for subpoena power and establishing permanence for the OCE.³⁵ If we are to provide any real ethics reforms, we must empower the House Ethics Committee to truly investigate possible offenses.

³² Tony Cook and Chelsea Schneider. October 11, 2016.

<http://www.indystar.com/story/news/politics/2016/10/10/when-questioned-bayh-camp-failed-reveal-apollo-meetings/91861724/>

³³ Wilson, Megan. September 29, 2016. <http://thehill.com/business-a-lobbying/298404-finding-a-new-job-just-got-more-complicated-for-federal-employees>

³⁴ Flaherty, Peter. September 20, 2016. <http://nlpc.org/2016/09/20/real-corrine-brown-scandal-weak-ethics-enforcement-house/>

³⁵ Hess, Hannah. October 16, 2014. <http://www.rollcall.com/news/home/house-office-of-congressional-ethics-watchdogs>

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