

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

Memorandum

Date: January 29, 2019

To: Board of County Commissioners

Via: Katherine Miller, County Manager

From: Anna C. Hansen, Santa Fe County Commissioner, District 2

Subject: Resolution No. 2019-____, A Resolution Urging Congress to Clarify that the Rights Protected Under the United States Constitution are the Rights of Human Beings and Not the Rights of Artificial Entities, and that Governments May and Shall Regulate Campaign Contributions and Expenditures to Protect the People from Corruption and Undue or Disproportionate Influence in Elections and Government; Asking that Congress Propose a Constitutional Amendment to Provide Such Clarification

Background and Summary:

In a number of cases stretching back over the past four decades, beginning with *Buckley v. Valeo* (1976) and including *Citizens United v. FEC* (2010), the Supreme Court of the United States (SCOTUS) has declared unconstitutional under the free speech clause of the 1st Amendment to the Constitution established laws, some stretching back over 100 years, regulating campaign finance. Those decisions prevent federal, state and local governments from effectively regulating campaign finance to fight corruption and eliminate the unfair, undue influence of wealthy individuals, big corporations and special interests in our election processes.

There is a strong, national effort supported by many nonprofit organizations like New Mexicans for Money Out of Politics and American Promise for a "28th Amendment" to reverse those SCOTUS decisions and restore the right of "We the People," through their elected representatives, to eliminate corruption and undue influence in our elections. The attached resolution would show the support of the Santa Fe County Board of County Commissioners for this important, national, nonpartisan effort.

Please see attached documents which include the American Promise pledge, a list of New Mexico leaders who have signed the pledge, and statements of support from New Mexico Senators Tom Udall and Martin Heinrich.

Action Requested:

Commissioner Hansen respectfully requests the Board of County Commissioners support and approve this resolution.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY
RESOLUTION NO. 2019 - _____**

A RESOLUTION URGING CONGRESS TO CLARIFY THAT THE RIGHTS PROTECTED UNDER THE UNITED STATES CONSTITUTION ARE THE RIGHTS OF HUMAN BEINGS AND NOT THE RIGHTS OF ARTIFICIAL ENTITIES, AND THAT GOVERNMENTS MAY AND SHALL REGULATE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES TO PROTECT THE PEOPLE FROM CORRUPTION AND UNDUE OR DISPROPORTIONATE INFLUENCE IN ELECTIONS AND GOVERNMENT; ASKING THAT CONGRESS PROPOSE A CONSTITUTIONAL AMENDMENT TO PROVIDE SUCH CLARIFICATION

WHEREAS, neither the Constitution of the United States nor any of its several amendments make any reference to corporations or other artificial, government-created entities, and the rights set forth therein were originally conceived as inalienable rights belonging inherently to human beings only; and

WHEREAS, the Supreme Court of the United States in a number of cases has held that the right of free speech recognized in the Constitution also belongs to corporations and other artificial entities; and

WHEREAS, the Supreme Court of the United States has also held that certain types of regulation of campaign finance impermissibly abridge the right of free speech of human beings, corporations and artificial entities, thereby limiting the right of the People to regulate them through Federal, State, or local law; and

WHEREAS, such Supreme Court decisions and lower court decisions predicated upon them allow human beings, corporations, and other artificial entities to spend virtually unlimited amounts of money in support of or against candidates and ballot measures, undercutting the rights of citizens to prevent corruption and enjoy equal and meaningful participation in the democratic process; and

WHEREAS, this undermines public confidence in the democratic process and democratic institutions of our nation; and

WHEREAS, under Article V of the Constitution of the United States, the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to said Constitution;

NOW, THEREFORE, BE IT RESOLVED, that the County of Santa Fe, State of New Mexico, hereby requests that Congress propose an amendment to the Constitution of the United States that confirms that:

- (1) The rights protected by the Constitution of the United States are rights belonging to human beings only;
- (2) Any entity, including any organization or association of one or more persons, established or allowed by the laws of any State, the United States, or any Foreign State shall have no rights under said Constitution separate from the rights of its individual human members, and is subject to regulation by the people, through Federal, State, or local law;
- (3) Federal, State, and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens have access to the political process, and that no person or entity gains, as a result of their access to or ownership of money, substantially more access or ability to influence in any way the election of any candidate for public office or any ballot measure;
- (4) Federal, State, and local government shall require that such contributions and expenditures be publicly disclosed; and
- (5) Such regulation and disclosure requirements enacted and performed in accordance with the intents and purposes of such an amendment shall not be construed as violative of said Constitution.

NOW BE IT FURTHER RESOLVED, that the County Clerk is directed to prepare copies of this resolution and transmit them to New Mexico's Senators and Representatives in Congress and to the State Senators and Representatives in the New Mexico Legislature representing districts wholly or partially within the boundaries of Santa Fe County.

PASSED, APPROVED, AND ADOPTED ON THIS 29th DAY OF JANUARY, 2019

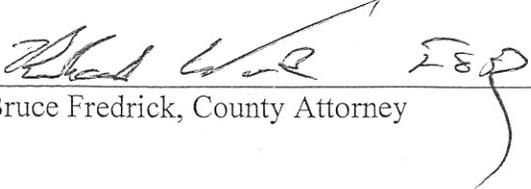
THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Anna T. Hamilton, Chair

ATTESTATION:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



R. Bruce Fredrick, County Attorney



AMERICAN PROMISE

American Promise 28th Amendment Candidate & Elected Official Pledge

I support amending the United States Constitution to 1) secure fair, free elections by limiting the undue influence of money in politics; 2) protect the rights of all Americans to equal participation and representation, rather than overrepresentation of donors and special interests; and 3) protect the unalienable liberty of people rather than new privileges for the largest corporations, unions, and special interests; and

I pledge to use my office to advance such a 28th Amendment in the ways and means available to me as a public official, including, but not limited to: sponsoring or cosponsoring bills, resolutions, or other legislation advancing proposal or ratification of such a 28th Amendment; voting in favor of such bills and resolutions in committee, subcommittee, floor or other votes; working to build cross-partisan support; and publicly advocating for the necessity of such a 28th Amendment.

Name

Signature

Office

State

Date

Please sign this pledge, and return it to New Mexicans for Money Out of Politics and American Promise by email to:

info@nmmop.com and johannese@americanpromise.net

or by mailing it to New Mexicans for Money Out of Politics, 2840 Vereda del Pueblo, Santa Fe, NM, 87507 and American Promise, 33 Bradford Street, Concord, MA 01742



The Problem

Money isn't speech; it's power. Supreme Court decisions such as *Buckley v. Valeo* and *Citizens United v. Federal Election Commission* created radical new "free speech rights" for money, corporations, unions and special interests at the expense of the rights of all Americans and the interests of the country. The concentrated financial influence of special interests in our politics is the number one problem our nation faces, and the survival of American democracy is on the line if we fail to act. Now, the 28th Amendment is more urgent than ever. The Supreme Court won't fix its catastrophic mistake, so it's up to the people and our elected representatives.

Our Constitution guarantees the proposition that all people are created equal. No entity – be it a global corporation, international union, or political party - can take away the inherent rights of human beings. Our American birthright is built on that fundamental assurance. We have been living through a decades-long trend where global corporations and special interests have been gaining "super-citizen" status. *Citizens United v. FEC* is a 2010 Supreme Court ruling that says: 1) corporations have the same rights as humans, 2) limitless political spending is the same as free speech, and 3) Americans cannot set limits on political spending.

The Solution

An amendment is the only way to rebuild the foundation of American democracy by allowing the American people to set common sense, fair limits on political spending. Right now, the Supreme Court says we are prohibited from setting limits to money in our politics because money is free speech. Americans overwhelmingly disagree, and know that effective republican democracy requires the voices of all, the participation of all. A political system based on money isn't democracy; it's plutocracy. The 28th Amendment will reverse the Supreme Court's catastrophic mistake (and will be the eighth time the American people used the amendment process to reverse Supreme Court mistakes that endangered the nation).

Americans won all twenty-seven previous Constitutional amendments—including the Bill of Rights, equal rights for all regardless of race, votes for women, term limits on Presidents, election of Senators and an end to the poll tax—by forcing 2/3 of Congress to propose the Amendment, and ¾ (38) state legislatures to ratify the amendment.

Now we will do so again.

The 28th Amendment to the U.S. Constitution replaces the Supreme Court's doctrine of political inequality, reflected in decisions such as *Citizens United v. FEC*, with foundational American principles of equal citizenship and representation and safeguards against systemic corruption.

The 28th Amendment will: 1) secure fair, free elections; 2) protect the rights of all Americans to equal participation and representation; and 3) return to original liberties for people rather than new privileges for the largest corporations, unions, and special interests.

AP Pledge Signers in NM

Akhil	Abbas	NM	State Representative	20	Elected
Apodaca	Jeff	NM	Governor	0	Pledged Candidate
Applewhite	Jarratt	NM	State Representative	50	Pledged Candidate
Cervantes	Joe	NM	Governor	0	Pledged Candidate
DeBenedittis	Peter	NM	Governor	0	Pledged Candidate
Griffin	Clayburn	NM	US Representative	2	Pledged Candidate
Haaland	Deb	NM	US Representative	1	Elected
Hansen	Anna	NM	Santa Fe County Commissioner	2	Pledged Incumbent
Jaramillo	Mary Jo	NM	State Representative	8	Pledged Candidate
Moreno	Ed	NM	Santa Fe County Commissioner	5	Pledged Incumbent
Nordquist	Heather	NM	State Representative	46	Pledged Candidate
Ortiz y Pino	Jerry	NM	State Senator	12	Pledged Incumbent
Romero	Andrea	NM	State Representative	46	Elected
Toulouse- Oliver	Maggie	NM	Secretary of State	0	Elected
Webber	Alan	NM	Mayor of Santa Fe	0	Elected

Statement from Senator Tom Udall, at the time of introducing his Democracy for All Amendment legislation during the 115th Congress:

“Each year, because of Citizens United and subsequent decisions, the door has opened wider for rich special interests and corporations to pour unlimited sums of money into our elections and root themselves in our government. The only real way we can put our democracy back in the hands of all Americans, instead of a privileged, powerful few, is to amend the Constitution. Our Democracy for All Amendment restores the authority of the American people – through Congress and the states – to regulate campaign finance, so that our elections aren’t put up for sale to the highest bidder. Millions of people across the country and over a dozen state legislatures, including New Mexico’s, have voiced support for a constitutional amendment, and we must keep pressing forward to ensure a government that is of, by, and for the people.”

Martin Heinrich:

“Our leaders must have the trust of the American people that their decisions will benefit everyone, not just the wealthy. In the wake of Supreme Court decisions that equated money with speech, it has become urgent for Congress to do what it can to restore transparency and accountability to the political system. That’s why I am proud to join Senator Udall in introducing this constitutional amendment. Continuing on a path that equates money with speech, and corporations with people, erodes the integrity of our political process and the public's faith in our leaders to do what's right.”

