

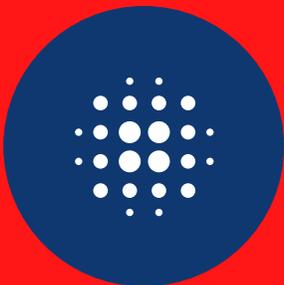


THE ACCOUNTABILITY AMENDMENT

accountability



FRANK KEENEY



Act2Reform.org

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Accountability of Federal Officials is Within Our Reach

The Rule of Law

Many feel that our government fails to hold federal officials accountable for their actions, and the cause of this failing is clear: the law is not effectively enforced against them. And, unfortunately, we find that our current organizational structure is incapable of this enforcement. Without a credible threat of enforcement, officials may operate with impunity, ignoring legal responsibilities when it suits their political purposes.

The Constitution assigns the responsibility for enforcement of the law to the president, which he does by acting through his appointed Attorney General. However, the president wins office through the efforts of his political party, and all of his appointments (including the AG) are naturally partisan. Consequently, the AG has little appetite to prosecute members of the president's staff and cabinet, and examples of enforcement of the law against officials of the president's political party are extremely rare while examples of cases of apparent malfeasance that are ignored are all too common.

The states largely avoided this conflict of interest problem: 45 states elect their attorneys general while only five are appointed by governors.

But having identified the cause of the lack of accountability, can we find a solution? Clearly, the function of enforcing the law against federal officials must be moved from the executive branch, but it is not a good fit in the legislative or judicial branches. That leads us to the states and this question: Would it be possible to create an organizational unit under the control of the states that could be the non-partisan home of this law enforcement function?

We submit the answer to this question is definitely YES! Here's how it would be done by the Accountability Amendment.



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The Accountability Solution

This amendment would create a new organizational unit, the States' Compact, which would be controlled by the states acting through a state-appointed board of directors; the board could, in turn, elect an executive committee to manage the daily affairs of the unit. The Compact would include (1) a new department to enforce the law against government officials and (2) a collection of existing departments that would be transferred to the Compact. It would be administered in a non-partisan manner.

1. The new department would be the "States' Bureau of Investigation" (SBI), with responsibility for enforcement of the law against federal, state, and local government officials; it would be empowered to investigate alleged improprieties, issue reprimands, assess penalties, and initiate legal action against an individual or group. In situations where the action is indicated but it lacked jurisdiction, it could recommend appropriate action to the Department of Justice.
2. Existing departments that would be transferred to the Compact would include (a) all federal departments that are susceptible to partisan meddling by executive and legislative branch personnel (such as the Internal Revenue Service and Federal Elections Commission), and (b) those departments with responsibility for administrative functions that should be free of partisan influences (such as the General Accountability Office, Federal Compensation Agency, Freedom of Information Act Enforcement Agency, Citizen Ombudsman Office, and Office of Government Ethics).

Additionally, the Compact could be empowered to improve federal operations through review of operational procedures and mandating changes to ensure free and open debate on legislation, adequate time for public review of proposed regulations and executive orders, procedural safeguards against fraudulent activity, and other reform actions. It would become the watchdog of the federal government, but a watchdog with teeth!

By absorbing many of the administrative functions now performed (erratically, at best) by Congress, it would free up Congress to concentrate on matters of policy. Sensitive aspects of administration would be the domain of the Compact, and Congress could monitor its performance and restrain it from ventures into policy if that became necessary.

Responsibilities of The States' Bureau of Investigation (SBI)

1. Enforcement of the law against federal, state, and local government officials
2. Oversight of federal departments susceptible to partisan meddling

Other Benefits Delivered

The benefits that would accrue to the country from the implementation of the Accountability Amendment are compelling and seemingly endless. Here are a few others we can expect to see.

Partisanship

Organizations tend to adapt to and embrace the philosophy of their leaders, and with the careful selection of political centrists for the leadership positions of the Compact, it could quickly institutionalize a non-partisan atmosphere in this group. That would be a big plus for the republic and could be the first step toward a more civil and productive political culture. It could be the death knell for hyper-partisanship in Washington.

Special Prosecutors

With the responsibility for investigation and prosecution of alleged improprieties of government officials assigned to the SBI, the current practice of the Department of Justice of appointing special prosecutors for investigations would be ended. The purpose of these appointments was an attempt to make an investigation non-partisan, but with a partisan president watching over the DOJ appointments, it is inevitable that the special prosecutor and staff would come with partisan backgrounds. This creates an appearance of bias from the inception of the investigation and diminishes the credibility of their work product. It often results in a less than satisfactory conclusion to an investigation.

Most advocates of good government would welcome the end of the special prosecutor law and the implementation of this improved solution.

Moving the responsibility to enforce the law against government officials to the SBI should result in non-partisan investigations that produce satisfactory conclusions. Additionally, it could produce indirect benefits by stopping partisan leaks of information to the press and reducing aggressive efforts to influence the course of an investigation through extravagant media coverage and continuous political messaging. The SBI could set the tone for media reporting through its pronouncements and actions. It could even consider introducing standards of performance for the fourth estate that would justify the media's preference in the Constitution, introducing more accountability in the public square.

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A Tough Cop on the Beat

The very presence of this new, active “cop on the beat” would significantly impact the culture of Washington; officials would choose their actions more carefully and avoid risky steps that could bring them under the watchful eye of the SBI and perhaps its enforcement arm. This culture change would be far-reaching and highly beneficial.

Intimidation of Citizens

In addition to its primary function of enforcing the law, the Compact can be a safe haven for federal departments and independent agencies that should be protected from partisan meddling by the president and members of Congress. Occasionally, this meddling has escalated to actual harassment of citizens, which is an abuse of government power that must be eliminated if we are to preserve our personal freedoms.

Declare War on Scams

Studies indicate that hundreds of millions of dollars are lost every year to scam artists and criminals that prey on the ineptitude of the federal government. The Compact could greatly reduce those losses by establishing a group of professional investigators to review disbursement procedures and force appropriate changes by offending operational units. Today, Congress has this responsibility, but it has neither the skill set nor the time to devote to the effort. As a result, Congress pays lip service to the need for change, but accomplishes little.

The occasional congressional voice that highlights government waste and ineptitude falls largely on deaf ears.

Transparency with Teeth

The new Compact would have power to promote transparency in government through improved rules of conduct for the branches of government and all federal bureaucracies. With the authority to impose penalties for improper conduct by federal officials, the Compact will command respect throughout the government.

Summary of the Other Four Act 2 Amendments

Election Reform Amendment – will protect voters in federal elections from interference by outsiders:

- satisfies the libertarian tenet of not infringing on the rights of others
- blocks the tsunami of money that currently flows into targeted election districts
- honors the personal service contract between the candidate and their constituencies
- addresses the adverse selection effect of the current system
- reduces the fundraising burden on candidates and elected officials, freeing them to perform their primary duties

Executive Restraint Amendment – empowers Congress to restrain executive and bureaucratic overreach:

- Levels the playing field by giving Congress a tool to quickly block new regulations, matching the presidential veto
- Ends the current bias favoring new regulations that allows them to be implemented while a challenge must go through the judicial system, which may take years
- Shifts power to the people

Honest Finances Amendment – promotes transparency and prudence in the management of our national finances:

- Addresses the greatest intergenerational wealth transfer in the history of the world
- Mandates that every claim on the federal purse must be submitted to the discipline of the national budget, including but not limited to direct funding, credits and deductions under the tax code, self-dealing by Congress in compensation and benefit determination, earmarks for constituents, and pensions and benefits for federal retirees

Term Limits Amendment – limits service in the federal judiciary and Congress:

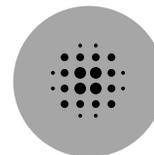
- Rebalances power among federal branches, since limits have been added to the executive branch by earlier amendment
- Ends lifetime appointments to the judiciary, protecting against diminishing performance by individuals
- Places limit on personal power in Congress; acknowledges original intent to have “citizen” lawmakers, not career politicians

CONCLUSION: Transforming Washington

The five Act 2 reforms would transform the culture of Washington and address the systemic problems of our federal government. They would:

- Create a new organizational unit external to the three federal branches (the States' Compact) to enforce the law against federal officials, eliminating the need for special counsels; it would be controlled by the states and administered in a non-partisan manner.
- Recognize and codify the right of voters to quiet enjoyment of their elections, without outside interference; this will properly acknowledge the importance of free and fair elections in the republic.
- Require that all claims on the federal purse must be presented for public view in the annual budget process and authorized by budget resolutions; this will impose transparency on congressional handouts.
- Require that the budget be balanced in normal years; provide for emergency deficits but require fiscal recovery within eight years.
- Block issuance of new domestic orders and regulations from the executive branch and agencies with a simple resolution from either the House or Senate, balancing the presidential veto; this will force the originator to seek normal legislative approval for actions that have been challenged.
- Utilize the new States' Compact as the home for all departments and agencies that should be protected from partisan meddling by executive or legislative officials; this will curtail the practice of using governmental power to advance a political agenda by intimidating citizens.
- Increase the effectiveness and vitality of the federal government by placing limits on service in the federal judiciary and Congress; this will eliminate the threat of age-related infirmities and clear out pockets of personal power that tend to grow over time.

These changes would strengthen the pillars of the republic, fortify our personal freedoms, and end the extreme partisanship in Washington.



FRANK KEENEY

President, Founder, Act 2 Inc

Act2Reform.org

Keeney attended the University of Washington on an NROTC scholarship, earned membership in Phi Beta Kappa and other academic honorary organizations, and graduated with honors. (BA and MBA). Before graduation, he passed all four parts of the state CPA examination in one sitting. His career included three years on active duty with the US Navy Supply Corps during the Korean War (1950-1953) (he was the “Bull Ensign” of the Corps); 22 years working in large companies (IBM, Smith Barney and Deloitte); and 26 years in small business startups and turnaround situations, which included numerous financings, a successful Chapter 11 reorganization, the sale of a turnaround to First Data Resources and sale of a startup to Qualcomm.

In retirement, Keeney developed a keen interest in government and with his wife Carol founded the Act 2 reform movement in 2013. They recently relocated from Colorado to New York state, but continue to pursue the program with a small staff based in Colorado. The Keeneys will celebrate their 70th wedding anniversary in May, 2021.