



March 26, 2008

Senator John McCain  
John McCain 2008  
PO Box 16118  
Arlington, VA 22215

Dear Senator McCain:

As a member of the U.S. Senate, you have championed critical reforms to our nation's campaign finance laws and their enforcement. As a presidential candidate, however, you have set aside the reform mantle and declined to take a public stand on the most pressing issues concerning how America pays for its elections, the climate of corruption created by Washington's reliance on special-interest money, and the impact that has on our democracy.

On behalf of Common Cause, I write today to urge you to use your position as presumptive presidential nominee of the Republican Party to show strong support for reform now, both in your actions and words.

### **Modernizing the presidential public financing system**

On November 21, 2003, you introduced legislation with Senator Russell Feingold (D-WI) and Reps. Chris Shays (R-CT) and Marty Meehan (D-MA) that in the words of your joint statement would:

...reform and preserve the presidential public funding system. This system, enacted in the wake of the Watergate scandals and upheld by the Supreme Court in *Buckley v. Valeo*, has served this country well.

At the time, you and the other co-sponsors of this bill accurately anticipated the problems facing the presidential public funding system:

Unfortunately, the evolution of the primary election process, particularly the front-loading of decisive primaries, and the emergence of candidates able to raise money far in excess of the primary election spending limits have exposed the weaknesses of the current system.

As you know, Common Cause continues to advocate for the strengthening of the presidential public financing system, and strongly supports the Feingold-Collins bill, S. 2412. We agree with your earlier description of the important role public financing plays in our democracy:

The public financing system for presidential elections, which aims to allow candidates to run competitive campaigns without becoming overly dependent on private donors, is a system worth improving and preserving... We look forward to working with all interested parties to fix the public financing system so that it can continue to fulfill its important function in our democracy.

Unfortunately, you have withdrawn your sponsorship of legislation to strengthen the presidential system, saying you would not do so while you are a presidential candidate. We urge you to reconsider this decision and join four other current or former candidates in the 2008 presidential race in support of S. 2412.

### **Effective enforcement of existing campaign finance laws, including BCRA**

As you know from our previous letter to you, Common Cause is also alarmed at the current crisis caused by the deadlock on Federal Elections Commission (FEC) nominations on Capitol Hill. The fact that we do not have a functional election watchdog during the most important presidential election in a generation is a national embarrassment. It is like playing the World Series without an umpire. Without effective enforcement, our campaign finance laws – including the Bipartisan Campaign Reform Act, which you worked so hard to enact – are essentially meaningless.

Similarly, we are concerned that your recent actions in regard to public funding in the presidential primaries may undermine respect for the federal campaign finance laws, especially the presidential public financing system. Having opted into the system last summer – and having signed a binding certification agreement with the FEC – it is clear to us that you need an FEC vote to allow you to withdraw. The current chair (nominated by the Republicans), David Mason, wrote to you on February 19, 2008 that:

The Commission made clear [in Advisory Opinion 2003-35] that a candidate enters into a binding contract with the Commission when he executes the candidate Agreements and Certifications. The Commission stated that it would withdraw a candidate's certification upon written request, thus agreeing to rescind the contract, so long as the candidate: 1) had not received Matching Payment Program funds, and 2) had not pledged the certification of Matching Payment Program funds as security for private financing.

Accordingly, we consider your letter [of February 6] as a request that the Commission withdraw its previous certifications. Just as 2 U.S.C. § 437c(c) required an affirmative vote of four Commissioners to make these certifications, it requires an affirmative vote of four Commissioners to withdraw them. Therefore, the Commission will consider your request at such time as it has a quorum.

Common Cause is not prejudging the legal ins and outs of whether your campaign can still withdraw from the system after using the prospect of public matching funds as an active ingredient in a private \$4 million loan agreement and to secure free ballot access in several states. However, we feel it is vital that you respect the role of the FEC in making this decision.

Even more importantly, we reiterate our urgent appeal to you to use your prominent position as presidential nominee and your reputation as a leader on campaign finance issues in the U.S. Senate to do everything possible to break the current deadlock on FEC nominations, triggered by the controversial appointment of Hans von Spakowsky, so that Americans can have some measure of faith that the 2008 elections will be fair, transparent and honest.

We also hope that you will make reform of the FEC a priority if elected. In the past you have been a vocal critic of political maneuvering in the Senate that has made the FEC so ineffectual. On July 10 2003, you introduced FEC reform legislation and noted the agency's critical importance:

[T]he FEC has sole jurisdiction over all enforcement of campaign finance laws. No matter how slow the FEC's proceedings are, no one can seek civil enforcement of the law through the courts. All complaints must be filed with the FEC and only the FEC has the authority to act on them.

Clearly, the public cannot have faith in the integrity of federal elections until it has faith in the body responsible for enforcing the nation's campaign finance laws.

We hope that in your continuing political career, whether as a U.S. Senator or President, you will once again embrace the reform initiatives you helped to create.

Sincerely,

Bob Edgar  
President