

KEY VOTE "NO" ON H.R. 5175 THE "DISCLOSE Act"

June 24, 2010

Dear Representative:

On behalf of hundreds of thousands of FreedomWorks members nationwide, I urge you to support the First Amendment of the Constitution, as you have sworn to do, and VOTE NO on H.R. 5175, the Democracy is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act. There is broad opposition to this legislation from groups across the political spectrum. Like the American Civil Liberties Union (ACLU), FreedomWorks would probably qualify for the special exemptions to this legislation that others have managed to carve out for themselves. But, also like the ACLU, we oppose this bill on principle: it is a clear violation of free speech and would likely have a chilling effect on the political discourse that is so vital to our democracy.

This has been a historic year for our democracy as citizens across the country have engaged in public policy debates to an extent rarely seen. The founding fathers would be pleased. This is something to be celebrated. Instead, Congress is considering a bill that would stifle such public debate.

Specifically, to quote the ACLU, "The DISCLOSE Act fails to preserve the anonymity of small donors, thereby especially chilling the expression rights of those who support controversial causes." It is important to remember why this anonymity exists. As the civil rights movement was gaining steam in the late 1950s, opponents of the movement's noble goals tried to silence supporters with government-mandated membership disclosure regimes that were, as the ACLU correctly notes, "thinly veiled attempts to intimidate activist organizations" by "instilling fear of retaliation among members of the activist group." In 1958 the Supreme Court correctly sided with the NAACP in *NAACP v Alabama*, ensuring NAACP supporters could maintain anonymity so they would not be subject to personal, political, or commercial attacks.

Two other pieces of the DISCLOSE Act look like specific attacks on the Tea Party movement. It is widely known that this decentralized movement is largely made up of individuals who are new to political activism and simply organizing with likeminded members of their community to do what they can for a country they love. But the DISCLOSE Act puts in place ambiguous guidelines that will leave many, especially smaller groups without the funds to pay for expensive campaign law attorneys, wondering whether or not they are violating the new rules. How are we to interpret page 27, which regulates "the functional equivalent of express advocacy"? When changing the rules of political participation, Congress should err on the side of encouraging participation, not discouraging it with ambiguous legalese that only empowers lawyers.

The DISCLOSE Act goes even further and expands the period of time during which those trying to participate in our democracy may violate new, confusing laws. In an election year when a record number of Americans may participate, this act expands the "electioneering communications" period. That's the number of days before elections when politicians have decided they want to control free speech. This bill says those limits would go from 60 days before an election to 120 days. Those are exactly the days when participation should be encouraged.

We will count your vote on H.R. 5175 as a KEY VOTE when tallying our scorecard and encourage you to vote NO.

Sincerely,



Matt Kibbe
President and CEO



FreedomWorks

601 Pennsylvania Avenue NW, North Building, Suite 700, Washington, DC 20004

www.FreedomWorks.org

Phone: (202) 783-3870 Fax: (202) 942-7649 Toll Free: 1-888-564-6273