

Legislative Agenda 2013

Enact Legislation to Disclose Dark Money in Elections

Congress should enact legislation based on the DISCLOSE (Democracy Is Strengthened by Casting Light On Spending in Elections) Act to require groups airing election ads to disclose where they got their money.

Background

The DISCLOSE Act was first introduced in 2010 as a response to the Supreme Court's decision in the *Citizens United* case, which, along with a handful of other court decisions, unleashed over \$1 billion in outside spending during the 2012 election cycle.

Because of the failure to enact the DISCLOSE Act, there are virtually no disclosure rules that apply to 501(c) organizations and, in the case of Super PACs, limited disclosure rules allow money to be laundered through shell 501(c) organizations so that the actual donors are never disclosed. This "dark money" undermines the theory of an informed electorate because voters don't know who is working to influence the elections. It also has a corrupting influence, because while the voters remain in the dark about the sources of dark money, elected officials will be made aware of the names and interests of their biggest donors. In addition, large, undisclosed donations to outside groups can be presented as calling cards by lobbyists seeking to gain access to decision-makers. The possibility of negative ads can be wielded as a threat, while a compliant politician might benefit from mudslinging, inaccurate dark money ads that target his opponent.

The 2012 DISCLOSE Act is a narrowly tailored congressional response that would have required corporations, unions, super PACs and secretive nonprofits to report within 24 hours of making a campaign expenditure of \$10,000 or more. The names of donors who give \$10,000 or more to the organization would be made public, but donors could remain anonymous by specifying that their donations to the organization were not to be used for campaign purposes.

The Supreme court relied heavily on the theory that transparency would cleanse the unlimited money that would shape our elections as a result of their decision in *Citizens United*, noting, "A campaign finance system that pairs corporate independent expenditures with effective disclosure has not existed before today." Only if legislation containing the principles of the DISCLOSE Act is enacted will such a system of disclosure exist.