

Support H.R. 513 to Close Soft Money Loophole

**Vote against Pence Amendment that Would Repeal an
Essential Anti-Corruption Watergate Reform Measure**

April 4, 2006

Dear Representative,

The House is scheduled to consider this week H.R. 513, legislation sponsored by Representatives Chris Shays (R-CT) and Marty Meehan (D-MA) to require that 527 groups spending money to influence federal elections comply with federal campaign finance laws.

Our organizations support H.R. 513, which is necessary to close the FEC-created loophole that allowed both Democratic and Republican 527 groups to spend hundreds of millions of dollars in unlimited soft money to influence the 2004 presidential and congressional elections.

The organizations include the Campaign Legal Center, Common Cause, Democracy 21, the League of Women Voters, Public Citizen and U.S. PIRG.

Under H.R. 513, the 527 political groups would be able to continue to undertake activities to influence federal elections, but would do so under the same campaign finance laws that apply to candidates, political parties and other political committees whose major purpose is to influence federal elections. Enclosed is a Q and A on H.R. 513.

Much of the soft money contributed to 527 groups to influence the 2004 federal elections came from a relatively small number of very wealthy individuals. According to campaign finance scholar Anthony Corrado, just 25 individuals accounted for \$146 million raised by Democratic and Republican 527 groups that spent money to influence the 2004 federal elections.

In order to qualify as a 527 group under the Internal Revenue Code and receive tax-exempt status, Section 527 groups must be “organized and operated primarily” to influence elections. They are, by definition, “political organizations,” not “issue groups,” and they should not be operating outside federal campaign finance laws when they are spending money to influence federal elections.

As the Supreme Court stated in the *McConnell* case upholding the constitutionality of the Bipartisan Campaign Reform Act, Section 527 groups “by definition engage in partisan political activity.” The Court stated in *McConnell* that 527 groups “are, unlike § 501(c) groups, organized for the express purpose of engaging in partisan political activity.”

Section 527 groups are treated differently under campaign finance laws than Section 501(c) groups because they are fundamentally different entities than 501(c) groups.

Section 527 groups, by definition, are organized and operated “primarily” to influence elections. This standard has long been used to define political groups that are covered by and must comply with federal campaign finance laws. Section 527 groups have the same organizing principle as candidate committees, political party committees and PACs — their primary purpose is to influence elections — and should be subject to the same campaign finance laws.

Section 501(c) groups, by contrast, are prohibited by their tax status from having a primary purpose to influence elections. Although Section 501(c) groups (except for charitable groups) are permitted to spend some money for political purposes, tax laws impose constraints on the political activity they can engage in, while similar constraints are not imposed on 527 groups.

The 2004 election demonstrated widespread soft money abuses by 527 groups, which spent hundreds of millions of dollars to influence the presidential and congressional elections without complying with the federal campaign finance laws. H.R. 513 addresses this demonstrated problem.

As we noted in our letter yesterday, an amendment may be offered by Representative Mike Pence (R-IN) to repeal the existing aggregate limit on the total contributions that an individual can give to all federal candidates and political parties in a two-year election cycle. The Pence amendment would repeal an essential Watergate reform that was enacted to prevent corruption and the appearance of corruption, and was upheld as constitutional on this basis by the Supreme Court.

We strongly oppose the Pence proposal, which would allow a President, Senator or Representative to solicit, and a single donor to contribute, a total of more than \$3,000,000 for the officeholder’s party and the party’s congressional candidates in a two-year election cycle.

We urge you to vote against the Pence “poison pill” amendment and also urge you to vote against H.R. 513 if it includes the Pence proposal or any variation of it.

Another proposal may be made to repeal section 441a (d) of the campaign finance laws, a provision which imposes limits on spending by political parties in coordination with their federal candidates.

We oppose repealing the limits on coordinated party spending with candidates.

Under Supreme Court rulings, a political party can spend an unlimited amount of hard money in a federal candidate’s race, independently of that candidate, even if the party has reached its limit on coordinated spending with that candidate in the race.

Thus, repeal of the limits on coordinated spending will not change the total amount of money a political party can spend in a given race, but rather will change the amount that can be spent in coordination with the party's candidate in the race.

Supporters of repealing the limit argue that this is a more effective way for parties to assist their candidates. We oppose repeal of the coordinated spending limit, however, since it provides a constraint on parties serving as a vehicle for individual donors to evade the limits on contributions from individuals to candidates.

H.R. 513 is based on the simple proposition that a 527 group that spends money to influence federal elections should abide by the same set of rules that apply to other political groups whose purpose is to spend money to influence federal elections. There is no basis for allowing a 527 group to claim the advantage of a tax exemption as a "political organization" under the tax laws, while at the same time failing to comply with the federal campaign finance laws on the claim that it is not a "political committee."

We strongly urge you to vote for H.R. 513, provided it does not include the Pence "poison pill" proposal to repeal or undermine the aggregate limit on individual contributions.

Campaign Legal Center
Common Cause
Democracy 21

League of Women Voters
Public Citizen
U.S. PIRG