

# Nonprofits Fight Limits On Lobbying

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With each legislative session, the National Conference of Catholic Bishops makes sure that Congress knows where it stands on such issues as abortion, embryo research or Head Start. But under a House Republican bill aimed at curbing "political advocacy" by nonprofit groups that receive federal grants, the bishops would have to dramatically limit their lobbying.

The bill would restrict the "advocacy" activities of federal grant recipients by setting limits on what they can do with their charitable contributions and nonfederal income. In a sharp break with current laws, the bill would expand lobbying restrictions to efforts to sway executive branch and judicial decisions.

The proposal has thrown the nation's nonprofit community into an uproar. The bill would affect the Catholic bishops, for example, because they receive millions of dollars in federal grants every year to resettle refugees. Other nonprofits fear the bill would undercut their ability to file court briefs that advocate policy changes.

Efforts to quash the bill are underway in about 30 states, from Colorado to Florida to Pennsylvania to Oregon. But on Capitol Hill, House Republicans will begin another push today to attach the legislation to the \$23 billion Treasury, Postal Service

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and White House appropriations bill headed for the House and Senate floors.

The bill's harshest critics—including Independent Sector, a coalition of more than 800 corporate and nonprofit groups, and OMB Watch, a public interest group—denounce the measure as an attempt by House Republican leaders to silence the nonprofit community. "They want to gut the ability of anyone who says government can help provide an answer. It will make their budget-cutting that much easier," said Robert O. Bothwell, executive director of the National Committee for Responsive Philanthropy.

At the center of the controversy is Rep. Ernest J. Istook Jr. (R-Okla.), the bill's chief advocate. "I want to separate the true charities from those that take advantage of the federal tax code to operate as lobbying groups in disguise," he said.

"What's really going on is a system of patronage, where many politicians, rather than have taxpayer money expended through agencies, have routed it through nonprofit groups to avoid accountability and to further political agendas. . . . They don't want to be uncloaked as lobbying groups," Istook said.

The bill would expand the common definition of lobbying—influencing congressional votes—to include "political advocacy." That term would encompass "carrying on propaganda" and attempts to influence executive branch or judicial decisions at the federal, state and local levels.

The term also would include public interest lawsuits, such as civil rights suits, and all political campaigns. The term would not include distribution of nonpartisan studies or advising a legislature or agency in response to a written request.

"No longer will taxpayers' money be used for welfare for lobbyists," Istook said during the House debate last month. The bill, House Majority Leader Richard K. Armey (R-Tex.) added, "sends a powerful message. . . . Government should assist the needy, not those whose business it is to lobby the government in the name of the needy."

Rep. David M. McIntosh (R-Ind.), a bill co-sponsor, said "the federal government pays out \$40 billion in grants to subsidize rich, multimillion-dollar outfits." The problem, said House GOP Whip Tom DeLay (Tex.), is that "money is fungible. If we give them federal grants in one pocket they can take other monies to lobby with."

To curb such activities, the House bill would limit spending on "political advocacy" to 5 percent of a nonprofit group's privately raised funds up to \$20 million, and to 1 percent beyond that point. To broaden its reach, the bill also would prohibit the groups from doing business with any organization that spends 15 percent or more of its budget on political advocacy.

Groups receiving grants would be required to submit an annual report to the federal agency awarding the grant. Politically active recipients would need to disclose basic information about their operations, the grant and their advocacy activities.

Federal agencies, in turn, would be directed to send a list of grant recipients and their annual reports to the Census Bureau, which would make the data available through the Internet.

Groups receiving grants would be subject to audits by the General Accounting Office and required to prove that they are complying with the law or be fined and lose their grants. Lawsuits could be brought up to 10 years af-

ter the violation, with cash rewards provided to persons bringing such suits.

Rep. David E. Skaggs (D-Colo.) tried to kill the Istook bill, part of the House Labor and Health and Human Services appropriations bill for 1996, but lost on a 232 to 187 vote. Since the Aug. 4 House vote, the debate over the Istook measure has been mired in confusion and mistrust, with the GOP renewing its efforts by seeking to add the measure to another bill further along in the legislative process.

Critics of the Istook bill believe it is part of a GOP crusade led by Armev to "defund the left." They point to attacks on the American Association of Retired Persons by Sen. Alan K. Simpson (R-Wyo.) and on the Combined Federal Campaign charity drive by Rep. John L. Mica (R-Fla.) as part of a strategy to gag groups that disagree with Republican goals.

Istook says that is not the case. "We've been very careful to make sure that this is a principled effort that ignores the political leanings or affiliation of any nonprofit that might be affected," he said. "A lot of these groups are extensions of the welfare state, there is no doubt about it, but I believe it would be wrong to single out any group for scrutiny or control because of their political affiliation."

Nonprofits, however, have specific objections to the bill, starting with the argument that the legislation is unnecessary. Office of Management and Budget rules already prohibit the use of federal funds for lobbying and partisan activity and the Internal Revenue Service tax code limits nonprofit lobbying, they said.

They also believe the Istook bill is unconstitutional. Georgetown University law professor David Cole said the bill "restricts the rights of all federal grantees to use their own money to engage in core First Amendment protected activities, including public debate on issues of

public concern, communication with elected representatives and litigation against the government."

But Istook's supporters argue that the bill would pass muster on First Amendment grounds because it would limit lobbying but still allow it. Armev defended the bill as "carefully balanced," saying "it represents the best work of the best legal minds on this subject."

Another provision of the bill has been widely criticized, particularly by Catholic leaders. Cardinal Roger Mahony, chairman of the National Conference of Catholic Bishops' Committee for Pro-Life Activities, said the bill's enforcement mechanism would allow "hostile groups" to harass antiabortion advocates.

"The prospect that we could now be subjected to new litigation directed against our defense of innocent human life, simply because we also receive [federal] grants to help us serve and enhance other human lives, is of the gravest concern to the bishops and to a wide variety of Catholic organizations," Mahony wrote in a letter to the House.

Sara E. Melendez, president of Independent Sector, said House Republicans are creating "a real double standard" by proposing expanded lobbying curbs on nonprofits but not on big business.

House Republicans think they are "trying to fix a problem," Melendez said, but "I'm not sure what problem it is they are trying to fix. They have not been able to demonstrate any pervasive or major abuses of the law that says nonprofits may not lobby with federal funds. There is no problem to fix here. . . . What they are trying to do is redefine what nonprofit work is."

The government has a long-standing partnership with nonprofits, dating to the earliest days of the nation, when states helped create colleges. Alan Abramson, associate director of

the Nonprofit Sector Research Fund for the Aspen Institute, said the partnership got a big push in the 1960s when government expanded its social services. Nonprofits were viewed as more responsive to the public than the bureaucracy and able to call upon volunteer labor, he said.

Abramson's research has found that most federal dollars flow to nonprofits indirectly, usually through state and local governments. He estimates that in fiscal 1994, federal support for nonprofits totaled \$134 billion, with more than three-quarters of that going to hospitals and health care providers through Medicare and Medicaid.

Research by Lester M. Salamon at Johns Hopkins University found that government grants, contracts and reimbursements accounted for 31 percent of nonprofit income.

Leaders of several nonprofits said the bill's broad definition of "political advocacy" would discourage their groups from taking public policy positions and from collaborating with schools and state governments on delivering services. "We're the largest provider of child care in the country," said Michael P. Graves, president of the YMCA of Delaware. "It would not make sense for governments not to use the YMCA as a resource, and for the YMCA to be precluded from speaking up when it sees a better way to do things."

Leslie Lenkowsky, president of the conservative Hudson Institute, which takes federal grants, said he is unclear what kinds of activities would be affected by Istook's bill. The legislation "addresses a real [lobbying] problem, but is the wrong way to do it," Lenkowsky said. "It is not going to solve the problem."

Instead, Lenkowsky said, lawmakers should pressure federal agencies that hand out grants "to do more in terms of oversight and enforcement to implement the laws on the books."