

**HEARING ON GROWTH OF THE TAX-EXEMPT
SECTOR AND THE IMPACT ON THE AMERICAN
POLITICAL LANDSCAPE**

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
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United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

FOR IMMEDIATE RELEASE
December 6, 2023
No. OS-05

CONTACT: 202-225-3625

**Chairman Smith and Oversight Subcommittee Chairman Schweikert
Announce Subcommittee Hearing on Growth of the Tax-Exempt Sector and
the Impact on the American Political Landscape**

House Committee on Ways and Means Chairman Jason Smith (MO-08) and Oversight Subcommittee Chairman David Schweikert (AZ-01) announced today that the Subcommittee on Oversight will hold a hearing to examine the tax-exempt sector and its impact on American politics. The hearing will take place on **Wednesday, December 13, 2023, at 2:00 PM in 1100 Longworth House Office Building.**

Members of the public may view the hearing via live webcast available at <https://waysandmeans.house.gov>. The webcast will not be available until the hearing starts.

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMSubmission@mail.house.gov.

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Wednesday, December 27, 2023.** For questions, or if you encounter technical problems, please call (202) 225-3625.

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The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the Committee website at <http://www.waysandmeans.house.gov/>.

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GROWTH OF THE TAX-EXEMPT SECTOR AND THE IMPACT ON THE AMERICAN POLITICAL LANDSCAPE

WEDNESDAY, DECEMBER 13, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:02 p.m. in Room 1100, Longworth House Office Building, Hon. David Schweikert [Chairman of the Subcommittee] presiding.

Chairman SCHWEIKERT. So let's actually go ahead and start ourselves.

Good afternoon. Welcome to today's Oversight Subcommittee hearing on the growth of tax-exempt sector and the impact on the American political landscape. If I could have altered that title a little bit, I would have actually gone with The Use of Pre-tax Money in These Types of Activities, because that is also part of one of my fixations.

Today we would like to hear from our panel of expert witnesses about the growth and changes the tax-exempt sector has undergone as well as discuss some political activities of these organizations.

We have read several articles about large sums of money, to the tune of millions and millions of dollars, flowing from foreign nationals into U.S.-based 501(c)(3)s and 501(c)(4)s, which have directed these funds into influencing American politics. While U.S. law makes it illegal for foreign nationals to donate directly to U.S. candidates for office, it seems these actors have found loopholes. This would raise eyebrows for all Americans.

At the same time, I would like to emphasize that Americans have a First Amendment right to contribute to these organizations with their privacy intact. Under current law, and I want to walk through a scenario, and this was as much for all of us to sort of think through the exposure: under current law, if Vladimir Putin were to donate money tomorrow to a U.S. based 501(c)(4), the organization is not required to disclose the source of those funds. Hypothetically, this organization could subsequently direct this money to a super PAC that could help directly elect a candidate for U.S. office, for Federal office.

Some of our colleagues on the other side of this have argued that Republicans are the drivers of dark money spending. But I would like to point out the fact about Democrats' use of sophisticated dark money networks in the hopes that they remain intellectually consistent as we have this discussion. According to Open Secrets, total dark money spending data from the 2020 election cycle shows that

there were nearly 2-and-a-half times more left-wing money than Republican money. While some Democrats have called for closure of these loopholes, Open Secrets has noticed that this hasn't stopped those very folks calling for the closure of the loopholes from using these loopholes.

CNN reported that during the 2020 presidential cycle Mr. Biden enjoyed six times the amount of dark money that the former President did. Mr. Biden had nearly \$123 million of dark money that backed his bid, as opposed to 22 million that backed former President Trump. It wasn't just the 2020 presidential cycle, though. The Democrat dark money advantage in 2018, 2019 mid-term elections continue.

I hope our witnesses today can educate us about where they are, where there are vulnerabilities to allow this pre-tax money to flow into things that intellectually, at least, as we believe in the intent of the law, are inappropriate.

Chairman SCHWEIKERT. And with that I yield to my ranking member.

Mr. PASCHELL. Thank you, Mr. Chairman. I would like to start today with just a brief history lesson.

Chairman SCHWEIKERT. I couldn't stop you if I wanted to.

Mr. PASCHELL. It has been over 13 years since the Supreme Court unleashed a tidal wave of dark money into politics through the disastrous—or what I consider—a Citizens United decision. And it was quite a controversy after that decision and up to this day.

We have seen political 501(c)(4)s, particularly—the chairman has mentioned those organizations pour over \$1 billion into Federal elections, every dollar, without any requirement to disclose the funding source. I think, if you listened to the chairman, he was very precise about that. My colleagues, my friends on the other side of the aisle, are making today about targeting tax-exempt organizations that don't align with their politics.

Mr. Chairman, I ask unanimous consent to enter into the record an op ed in the Los Angeles Times entitled, "Republicans now want to investigate tax exempt groups, just not their own," if I may.

Chairman SCHWEIKERT. So ordered.

[The information follows:]

OPINION

Opinion: Republicans now want to investigate tax-exempt groups, just not their own



House Oversight and Accountability Committee Chair James Comer (R-Ky.), left, and House Ways and Means Committee Chairman Jason Smith (R-Mo.) at a Capitol hearing on the Hunter Biden investigation on July 19, 2023. (J. Scott Applewhite / Associated Press)

BY KURT BARDELLA

SEPT. 14, 2023 3:15 AM PT

“Americans don’t want to live in a nation where big government has the power to silence free speech.” These are [the words](#) of House Ways and Means Chairman Jason Smith,

who recently [began an inquiry into](#) tax-exempt philanthropic and advocacy organizations.

I was surprised to see this effort from a Republican-led committee, since conservatives have often opposed government scrutiny of tax-exempt organizations and transparency in campaign finance systems. My former colleagues at the House Oversight Committee, for instance, launched a [major investigation](#) into the Obama administration for “targeting” conservative tax-exempt organizations.

The current black-box campaign finance system is, of course, the brainchild of conservatives. The Supreme Court’s 2010 [Citizens United decision](#) was the product of a conservative campaign to roll back campaign finance regulations and opened the door to untraceable spending in elections.

Since then, 501(c)(3) and 501(c)(4) nonprofit groups, which can spend money advocating on policy and don’t have to disclose their donors, have taken on central roles in the political landscape. In fact, [according to the research group OpenSecrets](#), organizations on the left and right that don’t have to disclose their donors spent \$963 million in elections in the decade after Citizens United, dwarfing the \$129 million spent over the previous decade.

House Republicans claim to be concerned about this growing influence, but only when it is in support of progressive causes. For all the energy Republicans have spent decrying the weaponization of the government to attack political opponents, Rep. Smith of Missouri appears to be doing exactly that. Until now, Republicans have vigorously blocked every campaign finance reform effort over the last decade and voted unanimously to block the Democratic-led [Disclose Act](#) last year, which would have provided some transparency.

House Republicans, however, lined up behind their American Confidence in Elections Act, a laundry list of election changes that would make voting harder — and, yes, [make](#)

[dark money spending easier](#). They say dark money on the left is a problem, and yet they're pushing legislation that would eliminate many of the few disclosure requirements that still exist.

Smith and the committee also claim that nonprofits are becoming conduits for "foreign influence," citing misleading xenophobic reports from right-wing media to make their case. But Republicans [have minimized](#) and downright denied Russian interference in our elections for years despite [bipartisan findings](#) that Russia organized an aggressive campaign to influence the 2016 elections.

Republicans are also ignoring foreign-owned and foreign-influenced corporations pumping money into our elections. Look no further than Rudolph W. Giuliani's business associate Lev Parnas, who was recently [sentenced](#) to 20 months in prison for using a shell company to funnel Russian oligarch money into American elections.

There's a lot of outrage about the political activities of progressive nonprofits, but Smith's committee seems to have no desire to look into conservative nonprofits such as [Turning Point USA](#), which helped fund the rally before the Jan. 6, 2021, Capitol riot, or the [Public Interest Legal Foundation](#), whose leaders were involved in disputing the results of the 2020 election.

Dozens of conservative nonprofits, including the [Honest Elections Project](#), led by Leonard Leo, co-chair of the Federalist Society, work to restrict voting rights, with great harm inflicted on voters of color. I can think of nothing more wrong than using tax-exempt groups to spread the "Big Lie," suppress voting rights or fuel an assault on the U.S. Capitol, yet that does not seem to be a concern for House Republicans. ([Leo is reportedly under investigation](#) for allegedly misusing his web of nonprofits to enrich himself; it would be surprising if Republicans decided to examine his case.)

There's more that the Internal Revenue Service should do to ensure that tax-exempt organizations are following the laws. But Republicans have refused to give the IRS the

12/11/23, 3:09 PM

Opinion: Republicans now want to investigate tax-exempt groups, but not their own - Los Angeles Times

resources it needs to conduct proper oversight of nonprofit organizations and even [voted to rescind](#) more than \$80 billion in IRS funding this year. Yet they're eager to investigate progressive groups when the biggest abuses are coming from their own camp.

Kurt Bardella is a contributing writer to Opinion. He is a Democratic strategist and a former senior advisor for Republicans on the House Oversight Committee.

[@KurtBardella](#)

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Mr. PASCRELL. All right. For a decade the other side hailed the Supreme Court's hideous decision. I think it is a hideous decision, you don't.

Chairman SCHWEIKERT. Actually, I—

Mr. PASCRELL. You are not so sure. Okay. To toss out a century of campaign finance law and open up the floodgates to unlimited dark money in our elections.

Look, neither side is privy to virtue on this stuff. I have been saying that all along. However, I would like to change the Supreme Court's mind about that, because I know it has opened up for everybody. That is what I am talking about today.

In the aftermath of Citizens United, I introduced legislation to keep foreign influence out of American elections. You didn't remember that. My bill would have prevented corporations controlled by foreign actors from making any contributions to our elections. It got almost no Republican support. That doesn't make them bad people, but it got no support from the other side except one or two.

After it was included in a democratic package to promote transparency, it died through a filibuster in the Senate.

Chairman SCHWEIKERT. We didn't do it.

Mr. PASCRELL. And when the IRS tried to crack down on dark money a decade ago, the other side created a fake scandal to falsely claim conservative groups. Don't get me started on the Lerner case, because people's private information was given to the public, and 6103 is pretty specific about that. It pertains to both sides, Democrats and Republicans.

So, despite a comprehensive TIGTA report in 2017 finding no unfair targeting, an appropriations rider pushed by the other side the Republicans have blocked the IRS from issuing regulations governing the very spending that you talked about in your opening statement. That is a fact. I hope my colleagues across the aisle will support finally allowing the IRS to do its job.

There is a common ground to be found on tax-exempt oversight. I personally believe it, or else I wouldn't say it. But I am not optimistic, based on the testimony we are expecting here in the openly partisan manner by which this hearing was conceived.

Mr. PASCRELL. Thank you, Mr. Chairman, and it is good to see you today.

Chairman SCHWEIKERT. And, Mr. Pascrell, I want to congratulate you on your ceremony you have happening today. And with that I would actually like to reach out for a few minutes from the chairman of the full committee.

Chairman SMITH. Thank you, Chairman Schweikert, Ranking Member Pascrell. It is great to be with you all.

The number of tax-exempt organizations in this country has seen massive growth in recent years. That has coincided with a huge influx of capital. Today there is almost 3 times the number of charities in the United States compared to 30 years ago. In the last 15 years, employment by non-profits has increased by over 30 percent. By comparison, jobs in the private sector overall only increased by 9 percent in the same period.

The question is what is behind the explosion of these organizations in the United States, and for what purposes?

A chief concern is the money from foreign nationals that appears to be pouring into tax-exempt organizations, while at the same time those same organizations are seeking to influence American politics. Foreign nationals are prohibited from directly donating to campaigns or outside political groups. However, there is evidence that some individuals are acting like a wolf in sheep's clothing and setting up tax-exempt organizations for the purposes of affecting our political process.

For example, a Swiss billionaire has reportedly given hundreds, hundreds of millions through tax-exempt organizations that were focused on promoting then-candidate Joe Biden's agenda. This wealthy individual's organizations are part of a broader network run and operated by an umbrella organization called Arabella Advisors that have formed a key part of the Democrat Party's political infrastructure in recent years.

Other billionaires have tried to influence elections through a supposedly charitable back door. During the 2020 election, Mark Zuckerberg donated 328 million to 501(c)(3) organizations that funded state and local election offices in ways that may have helped one political party over another.

Americans should be concerned that wealthy foreign nationals are using America's tax code to conceal their attempts to influence the American political process, despite being prohibited from donating directly to campaigns. The only people that should be influencing the outcomes of American elections are Americans.

As we explore these issues, I want to note the importance of privacy protections for Americans who donate to tax-exempt groups. As we protect our electoral process from foreign influence, we cannot sacrifice or risk donor privacy for Americans.

I am pleased we are having this hearing today, and I am grateful to our witnesses for sharing their expertise with us. I would note that two of our witnesses submitted formal responses to the request for information we put out earlier this year. My hope is that today's hearing will help us better understand the growth of the tax-exempt sector and its impact on American politics.

Chairman SMITH. I yield back, Mr. Chairman.

Chairman SCHWEIKERT. Thank you, Mr. Chairman. And just a slight point of personal privilege, thank you for letting me do a couple of these more technical hearings of areas of personal interest. I think it is good public policy to delve into these. So thank you, Mr. Chairman. We are now going to introduce the witnesses.

Justin Chung is legislative attorney for the Congressional Research Services.

Scott Walter is president of Capital Research Center.

Stewart Whitson is legal director at the Foundation for Government Accountability.

Philip Hackney is associate professor of law at the University of Pittsburgh.

Thank you for joining us all today. Your written statements will be made part of the hearing record. You each have five minutes.

An idiosyncrasy of this room, this room has horrible acoustics. Get really close to that microphone. Please start.

**STATEMENT OF JUSTIN CHUNG, LEGISLATIVE ATTORNEY,
CONGRESSIONAL RESEARCH SERVICE**

Mr. CHUNG. Chairman Smith, Chairman Schweikert, Ranking Member Pascrell, members of the subcommittee, my name is Justin Chung, and I am a legislative attorney in the American law division of the Congressional Research Service. Thank you for the opportunity to testify today on tax-exempt organizations and their involvement in political activity. As you have requested, I will focus on three subjects.

First I will discuss the development of Federal law on tax-exempt organizations with a focus on section 501(c)(3) charitable organizations, and section 501(c)(4) social welfare organizations.

Second, I will illustrate the growth of these groups over the past several decades.

And third, I will explain the current reporting requirements for these entities.

The Wilson-Gorman Tariff Act of 1894 contained one of the earliest statutory references to tax exemption for charitable organizations. The Act also established the requirement that exempt charities operate for certain enumerated purposes. Congress first introduced the separate tax exemption for social welfare organizations in 1913. The Internal Revenue Code of 1954 introduced the current structure of the code, with section 501(c) describing the now familiar categories of tax-exempt organizations. These included 501(c)(3) charitable groups and 501(c)(4) social welfare groups.

The 1954 code also established limits on political activities: 501(c)(3)s were explicitly prohibited from participating in or intervening in a political campaign of a candidate for public office. The code did not impose the same explicit limits on (c)(4)s. Subsequent IRS rulings gave (c)(4)s more leeway to engage in lobbying and political activities than (c)(3)s. The 1954 code further distinguished between a public charity and a private foundation for 501(c)(3)s. Public charities generally engage in greater public activity and receive more public support than private foundations.

The 501(c)(3)s and (c)(4)s are the first and second most common type of exempt organizations today. They differ in some significant ways.

First, charitable contributions to (c)(3)s may be tax deductible, while contributions to (c)(4)s generally are not.

Second, (c)(3)s and (c)(4)s differ in their ability to engage in political activity, such as electioneering and lobbying. For example, (c)(3)s may not engage in campaign activity and may only conduct a limited amount of lobbying. Meanwhile, (c)(4)s may engage in campaign activity as long as it is not its primary purpose of the organization, and an unlimited amount of lobbying if it is related to the group's exempt purposes.

By many measures, there has been substantial growth among 501(c)(3)s and (c)(4)s over the past several decades.

Under its constitutional taxing power, Congress has the authority to condition an organization's exempt status on regular reporting of certain information. Section 501 organizations generally must file some version of the Form 990. Schedules for the Form 990 request additional information. The current schedule B and in-

structions do not delineate between foreign and domestic contributions. Schedule B reports substantial donors' contributions.

They also do not have specific instructions on reporting the receipt of foreign contributions. Schedule B does not ask 501(c)(3)s and (c)(4)s to report the purpose and use of contributions.

Generally, all 501 organizations, including (c)(3)s and (c)(4)s, must report the dollar amount of significant contributions on Schedule B. However, under the code and current IRS regulations, whether donor information—that is, names and addresses—must be reported in the Schedule B depends on the type of organizations: (c)(3)s must report donor information while (c)(4)s do not. Whether the donor information by 501(c)(3)s is released to the public depends on whether it is a private foundation or—a private foundation or a public charity. Donor information by a private foundation is publicly available, but not donor information reported by public charities.

Thank you again for the opportunity to testify. I welcome questions from the committee.

[The statement of Mr. Chung follows:]



Statement of

Justin C. Chung
Legislative Attorney

Before

Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives

Hearing on

**“Growth of the Tax-Exempt Sector and the
Impact on the American Political Landscape”**

December 13, 2023

Congressional Research Service

7-5700

www.crs.gov

Executive Summary

Chairman Schweikert, Ranking Member Pascrell, and Members of the Subcommittee:

My name is Justin Chung, and I am a legislative attorney in the American Law Division of the Congressional Research Service (CRS). Thank you for the opportunity to testify today on tax-exempt organizations and their involvement in political activity. As you have requested, my testimony will focus on three subjects: (1) the history and development of the law governing organizations that are exempt from federal taxation under Internal Revenue Code (IRC) section 501(c), particularly under sections 501(c)(3) and 501(c)(4); (2) the growth in the number of Section 501(c)(3) and 501(c)(4) organizations; and (3) current reporting requirements for these organizations.

Legislation enacted by Congress between 1894 and 1969 established and refined the foundational requirements for tax exemption in the United States Tax Code that apply today, including:

- enumerated charitable purposes,
- a prohibition on private inurement,
- certain tax deductions for contributions,
- limitations on lobbying and campaign activity,
- a tax on unrelated business income, and
- categories of tax-exempt organizations, including Section 501(c)(3) charitable organizations and Section 501(c)(4) social welfare organizations.

Section 501(c)(3) and Section 501(c)(4) organizations are the first and second most common types of tax-exempt organizations, respectively, and continue to grow across multiple measures. They differ in significant ways, including their eligibility to receive tax-deductible charitable contributions and their ability to engage in political activity, such as electioneering and lobbying.

Under its constitutional taxing power, Congress has the authority to require organizations to provide certain information to the Internal Revenue Service (IRS) for purposes of obtaining and establishing continued compliance with the requirements for tax exempt status. Section 501(c) organizations generally must file some version of IRS Form 990. Schedules to the Form 990 require further information. For example, Schedule B reports substantial donor contributions and Schedule C reports political activity. Section 501(c) organizations may also have reporting obligations to the Federal Election Commission (FEC).

Under current IRS regulations, donor information (i.e., names and addresses) must be reported by Section 501(c)(3) organizations, but not by Section 501(c)(4) entities. The donor information reported by Section 501(c)(3) organizations that are private foundations is made available to the public, but not the donor information for Section 501(c)(3) organizations that qualify as public charities.

History and Development of the Law Governing Tax-Exempt Organizations Under IRC Section 501(c)

For as long as there has been a federal income tax, Congress has exempted certain types of entities from income taxation.¹ Legislation enacted between 1894 and 1969 established and refined the foundational requirements for tax exemption in the United States Tax Code that apply today.² During this period, Congress established the basic principles and prerequisites of tax exemption, and identified the activities that are and are not exempt from federal income taxation.³

Even before the founding of the United States, early settlers formed charitable and other “voluntary” associations—such as hospitals, fire departments, and orphanages—to address social needs.⁴ These associations comprised two distinct types of organizations—public-serving and member-serving.⁵ Public-serving, or “charitable,” organizations—such as schools and churches—provided services to the public.⁶ During the Industrial Revolution, private philanthropy proliferated to direct newly acquired wealth towards charitable endeavors.⁷ Compared to other early charitable organizations, private foundations generally were controlled and funded by fewer sources, such as an individual, corporation, or family.⁸

In contrast to public-serving organizations, member-serving organizations—such as fraternal societies and mutual benefit associations—promoted the interests of their members.⁹ The distinction between public-serving and member-serving organizations would come to be reflected in the categorization of tax-exempt organizations. Public-serving organizations are now described under section 501(c)(3) of the IRC, with further division between public charities and private foundations.¹⁰ Member-serving organizations are covered under other subsections of section 501(c).¹¹

The Wilson-Gorman Tariff Act of 1894¹² contains one of the earliest statutory references to tax exemption for charitable organizations.¹³ The Act established the requirement that tax-exempt charitable organizations operate for certain enumerated purposes.¹⁴ It stated that the corporate income tax shall not apply to “corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, including fraternal beneficiary societies.”¹⁵ This exemption language

¹ STAFF OF J. COMM. ON TAXATION, 109TH CONG., HISTORICAL DEVELOPMENT AND PRESENT LAW OF THE FEDERAL TAX EXEMPTION FOR CHARITIES AND OTHER TAX-EXEMPT ORGANIZATIONS, DOC. NO. JCX-29-05, AT 2 (2005), <https://www.jct.gov/publications/2005/jcx-29-05/> [hereinafter JCX-29-05].

² Paul Amsberger et al., *A History of the Tax-Exempt Sector: An SOI Perspective*, *Stat. Income Bull.* 105, 106 (2008), <https://www.irs.gov/pub/irs-soi/tehistory.pdf>.

³ *Id.*

⁴ *Id.* at 105.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ I.R.C. §§ 501(c)(3); 509; Amsberger et al., *supra* note 2, at 105.

¹¹ I.R.C. § 501(c); Amsberger et al., *supra* note 2, at 105.

¹² Wilson-Gorman Tariff Act of 1894, ch. 349, 28 Stat. 509.

¹³ Amsberger et al., *supra* note 2, at 106.

¹⁴ Wilson-Gorman Tariff Act of 1894, ch. 349, 28 Stat. 509, 556; Amsberger et al., *supra* note 2, at 106.

¹⁵ Wilson-Gorman Tariff Act of 1894, ch. 349, 28 Stat. 509, 556; Amsberger et al., *supra* note 2, at 106–07.

provided the basis for future tax exemption legislation.¹⁶ The Revenue Act of 1909¹⁷ set forth the requirement that tax-exempt charitable organizations be free of private inurement—in other words, that they be nonprofit entities.¹⁸

The Revenue Act of 1913¹⁹ first introduced a separate tax exemption for “any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare,” the precursor to the modern section 501(c)(4) exemption.²⁰ The provision may have resulted from lobbying by the Chamber of Commerce for an exemption for civic or commercial organizations.²¹

To encourage charitable contributions, the Revenue Act of 1917²² established, for the first time, an individual income tax deduction for contributions made to tax-exempt charitable organizations.²³ Congress later added deductions for charitable contributions from estates and corporations.²⁴

The Revenue Act of 1934²⁵ set forth limits on lobbying by charitable organizations, stating that “no substantial part” of such an organization’s activities can involve “propaganda” or influencing legislation.²⁶

The Revenue Act of 1950²⁷ marked the start of a period of increasing limitation on tax exemption. The Act established the “unrelated business income tax” (UBIT) so that income earned by a tax-exempt organization from activity not “substantially related” to the organization’s exempt purpose is taxed.²⁸

The Internal Revenue Code of 1954²⁹ introduced the current structure of the IRC, with section 501(c) describing the now familiar categories of tax-exempt organizations.³⁰ Among the categories of exempt organizations, which remain largely unchanged to today, charitable organizations were described under section 501(c)(3) and social welfare organizations in section 501(c)(4).³¹

The 1954 Code also established limits on political activities.³² Charitable organizations governed by section 501(c)(3) were prohibited from “participat[ing] in, or interven[ing] in (including the publishing or distributing of statements), a political campaign on behalf of any candidate for public office.”³³ The Code did not impose the same explicit prohibitions against engaging in political activities on 501(c)(4)

¹⁶ Amsberger et al., *supra* note 2, at 107.

¹⁷ Revenue Act of 1909, 36 Stat. 11.

¹⁸ Revenue Act of 1909, 36 Stat. 11, 113; Amsberger et al., *supra* note 2, at 107.

¹⁹ Revenue Act of 1913, Pub. L. No. 63-16, ch. 16, 38 Stat. 114.

²⁰ Revenue Act of 1913, Pub. L. No. 63-16, ch. 16, 38 Stat. 114, 172; Jeremy Koulisch, *From Camps to Campaign Funds: The History, Anatomy, and Activities of 501(c)(4) Organizations* 7 (2016), [https://www.urban.org/sites/default/files/publication/77226/2000594-From-Camps-to-Campaign-Funds-The-History-Anatomy-and-Activities-of-501\(c\)\(4\)-Organizations.pdf](https://www.urban.org/sites/default/files/publication/77226/2000594-From-Camps-to-Campaign-Funds-The-History-Anatomy-and-Activities-of-501(c)(4)-Organizations.pdf); JCX-29-05 at 31, 160; John Francis Reilly et al., *IRC 501(c)(4) Organizations* 4 (2003), <https://www.irs.gov/pub/irs-tege/eotopic03.pdf>.

²¹ Koulisch, *supra* note 20, at 7; JCX-29-05 at 162.

²² War Revenue Act of 1917, Pub. L. No. 65-50, ch. 63, 40 Stat. 300.

²³ War Revenue Act of 1917, Pub. L. No. 65-50, ch. 63, 40 Stat. 300, 330; Amsberger et al., *supra* note 2, at 107.

²⁴ Amsberger et al., *supra* note 2, at 108.

²⁵ Revenue Act of 1934, Pub. L. No. 73-216, ch. 277, 48 Stat. 680.

²⁶ Revenue Act of 1934, Pub. L. No. 73-216, ch. 277, 48 Stat. 680, 690, 700, 760; Amsberger et al., *supra* note 2, at 106, 124.

²⁷ Revenue Act of 1950, Pub. L. No. 81-814, ch. 994, 64 Stat. 906.

²⁸ Revenue Act of 1950, Pub. L. No. 81-814, ch. 994, 64 Stat. 906, 948-50; Amsberger et al., *supra* note 2, at 107.

²⁹ Internal Revenue Code of 1954, Pub. L. No. 83-591, ch. 736, 68A Stat. 3.

³⁰ Internal Revenue Code of 1954, I.R.C. § 501(c); Amsberger et al., *supra* note 2, at 124.

³¹ Internal Revenue Code of 1954, I.R.C. § 501(c)(3), (4); Amsberger et al., *supra* note 2, at 124.

³² Internal Revenue Code of 1954, I.R.C. § 501(c)(3); Amsberger et al., *supra* note 2, at 106, 124.

³³ Internal Revenue Code of 1954, I.R.C. § 501(c)(3); Amsberger et al., *supra* note 2, at 124.

organizations.³⁴ Subsequent IRS rulings gave 501(c)(4) organizations more leeway to engage in lobbying and political activity than 501(c)(3) entities.³⁵

The 1954 Code also established the distinction between a public charity and a private foundation for 501(c)(3) organizations.³⁶ The Tax Reform Act of 1969³⁷ included the first explicit definition of a private foundation, defining it as a charitable organization that did not: (1) engage in inherently public activities; (2) test for public safety; (3) receive substantial support from a wide array of public sources; or (4) operate in support of any organization that met any of the three preceding requirements.³⁸ Responding to concerns that private foundations were less accountable to the public than traditional charities, the 1969 Act also established an array of requirements specific to private foundations, including imposing a minimum charitable payout and an excise tax on net investment income.³⁹

The Revenue Reconciliation Act of 1993⁴⁰ imposed a tax on certain nondeductible lobbying and political expenditures made by membership organizations that are exempt from federal income taxation under IRC section 501(c)(4).⁴¹

The current iteration of the IRC describes approximately thirty types of tax-exempt organizations.⁴² The IRS has explained that “public charities exempt under section 501(c)(3) represent most of the tax-exempt organizations, and account for the bulk of the financial activity for the tax-exempt sector.”⁴³ The present exempt purposes allowed for 501(c)(3) organizations are: religious, charitable, scientific, testing for public safety, literary, educational, amateur sports, and the prevention of cruelty to children or animals.⁴⁴

Section 501(c)(3) organizations are further classified as either a private foundation or a public charity, distinguished primarily by the level of public involvement in their activities.⁴⁵ A Section 501(c)(3) organization is presumed to be a private foundation unless it requests, and qualifies for, a determination as a public charity, which generally involves proving public support or activity.⁴⁶

³⁴ Internal Revenue Code of 1954, I.R.C. § 501(c)(4).

³⁵ See, e.g. Rev. Rul. 55-269, 1955-1 C.B. 26; Rev. Rul. 81-95, 1981-1 C.B. 332; Koulisch, *supra* note 20, at 7.

³⁶ JCX-29-05 at 10.

³⁷ Tax Reform Act of 1969, Pub. L. 91-172, 83 Stat. 487.

³⁸ Amsberger et al., *supra* note 2, at 108; JCX-29-05 at 10.

³⁹ Amsberger et al., *supra* note 2, at 106–08.

⁴⁰ Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, tit. XIII, ch. 1, §§ 13001–13444, 107 Stat. 312, 416.

⁴¹ Amsberger et al., *supra* note 2, at 106, 126.

⁴² CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock (2020).

⁴³ Statistics of Income, Nonprofit Charitable and Other Tax-Exempt Organizations, Tax Year 2019, I.R.S. Pub. 5331 (Rev. 7-2023), <https://www.irs.gov/pub/irs-pdf/p5331.pdf>.

⁴⁴ I.R.C. § 501(c)(3).

⁴⁵ I.R.C. § 509; *EO Operational Requirements: Private Foundations and Public Charities*, IRS, <https://www.irs.gov/charities-non-profits/eo-operational-requirements-private-foundations-and-public-charities> (last visited Dec. 11, 2023).

⁴⁶ I.R.C. § 509(a)(1)-(4); *EO Operational Requirements: Private Foundations and Public Charities*, *supra* note 45; *Exempt Organizations Annual Reporting Requirements - Form 990, Schedules A and B: Public Charity Support Test*, IRS, <https://www.irs.gov/charities-non-profits/exempt-organizations-annual-reporting-requirements-form-990-schedules-a-and-b-public-charity-support-test> (last visited Dec. 10, 2023); *Public Charities*, IRS, <https://www.irs.gov/charities-non-profits/charitable-organizations/public-charities> (last visited Dec. 11, 2023).

Section 501(c)(3) and 501(c)(4) organizations (the second-most common type of tax-exempt organization)⁴⁷ differ in some significant ways. First, Section 501(c)(3) organizations are eligible to receive tax-deductible charitable contributions, while Section 501(c)(4) organizations generally are not.⁴⁸

Second, Section 501(c)(3) and Section 501(c)(4) organizations differ in their ability to engage in political activity, such as electioneering and lobbying.⁴⁹ For example, the charitable organizations described in Section 501(c)(3) may not engage in any campaign activity and may only conduct a limited amount of lobbying.⁵⁰ Meanwhile, Section 501(c)(4) social welfare organizations may engage in campaign activity (so long as such activity is not their primary purpose) and an unlimited amount of lobbying if it is related to their exempt purpose.⁵¹ The Supreme Court's decision in *Citizens United v. FEC*⁵² invalidated limits in the Federal Election Campaign Act (FECA) on corporate independent expenditures. This included implications for incorporated Section 501(c)(4) organizations.⁵³ Even so, it remains the case that campaign intervention cannot be a Section 501(c)(4) organization's primary purpose if it is to maintain its tax-exempt status. In other words, after *Citizens United*, an incorporated Section 501(c)(4) organization is no longer subject to those FECA limits, but—as a condition of its tax exemption—campaign intervention must not be its primary purpose, which is assessed by the IRS using a facts and circumstances test.⁵⁴ Section 501(c) organizations are required to report information regarding their political activities on Schedule C of the IRS Form 990.⁵⁵ They may also have reporting obligations to the FEC.⁵⁶

⁴⁷ *SOI Tax Stats - Tax-Exempt Organizations and Nonexempt Charitable Trusts - IRS Data Book Table 14*, IRS, <https://www.irs.gov/statistics/soi-tax-stats-tax-exempt-organizations-and-nonexempt-charitable-trusts-irs-data-book-table-14> (last visited Dec. 11, 2023).

⁴⁸ I.R.C. § 170; JCX-29-05 at 31, 164.

⁴⁹ I.R.C. §§ 501(c)(3), (4), 501(h); Treas. Reg. §§ 1.501(c)(3)-1; 501(c)(4)-1; JCX-29-05 at 164; STAFF OF J. COMM. ON TAXATION, 117TH CONG., PRESENT LAW AND BACKGROUND RELATING TO THE FEDERAL TAX TREATMENT OF POLITICAL CAMPAIGN AND LOBBYING ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS, DOC. NO. JCX-7-22 (2022), at 5, <https://www.jct.gov/publications/2022/jcx-7-22/> [hereinafter JCX-7-22].

⁵⁰ I.R.C. §§ 501(c)(3) (“[N]o substantial part of the activities [of the organization can be] carrying on propaganda, or otherwise attempting, to influence legislation . . . and [it may not] participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office”); 501(h); Treas. Reg. § 1.501(c)(3)-1(b)(3), (c)(3); JCX-7-22 at 7, 14.

⁵¹ I.R.C. § 501(c)(4) (establishing that the organization must be “operated exclusively for the promotion of social welfare”); Treas. Reg. § 1.501(c)(4)-1(a)(2) (“An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. . . . The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office . . . A social welfare organization . . . may qualify under section 501(c)(4) even though it is an *action* [i.e., lobbying] organization.”) (emphasis in original); JCX-7-22 at 11, 18.

⁵² *Citizens United v. FEC*, 558 U.S. 310 (2010).

⁵³ Section 501(c)(3) organizations were, and still are, prohibited from campaign intervention because they may “not participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office.” I.R.C. § 501(c)(3); *The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations*, IRS, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations> (last visited Dec. 11, 2023).

⁵⁴ See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159; Rev. Rul. 68-45, 1968-1 C.B. 259.

⁵⁵ IRS, Schedule C (Form 990): Political Campaign and Lobbying Activities (2023), <https://www.irs.gov/pub/irs-pdf/f990sc.pdf> (last visited Dec. 11, 2023); JCX-7-22 at 26.

⁵⁶ CRS In Focus IF11005, *Donor Disclosure: 501(c) Groups and Campaign Spending*, by R. Sam Garrett (2018); FECA/FEC requirements are otherwise beyond the scope of this testimony.

Table 1. Summary of Political Activity Allowed for Section 501(c)(3) and 501(c)(4) Organizations

	501(c)(3)	501(c)(4)
Lobbying	Limited	Unlimited, if related to exempt purpose
Campaign Activity	None	Must not be its primary purpose

Source: I.R.C. §§ 501(c)(3), (4); 501(h); Treas. Reg. § 1.501(c)(3)-1; Treas. Reg. § 1.501(c)(4)-1.

The Growth of 501(c)(3) and 501(c)(4) Organizations

By many measures, there has been substantial growth among 501(c)(3) and 501(c)(4) organizations.

In fiscal year (FY) 2022 the most recent year for which data is publicly available, the IRS reported that there were 1,480,565 Section 501(c)(3) organizations, and 74,735 Section 501(c)(4) organizations, which includes the number of organizations that had applied for and received recognition of their tax-exempt status.⁵⁷

By contrast, in FY1992, the IRS reported that there were 546,100 Section 501(c)(3) organizations and 142,673⁵⁸ Section 501(c)(4) organizations, as illustrated in **Figure 1**.

The IRS also reports data collected from the Form 990s that many tax-exempt organizations file and which is presented in the charts in **Figure 1**.

The IRS does not publicly release aggregated data regarding substantial contributions made to 501(c) organizations or their political activities, which the organizations report in Schedule B (discussed in greater detail below) and Schedule C of their annual Form 990 filings with the IRS.⁵⁹ Some organizations purport to numerically track political activity of Section 501(c) organizations using publicly available data from Form 990s, but they appear to rely on methodologies employed by the researchers rather than data drawn directly from IRS filings.⁶⁰

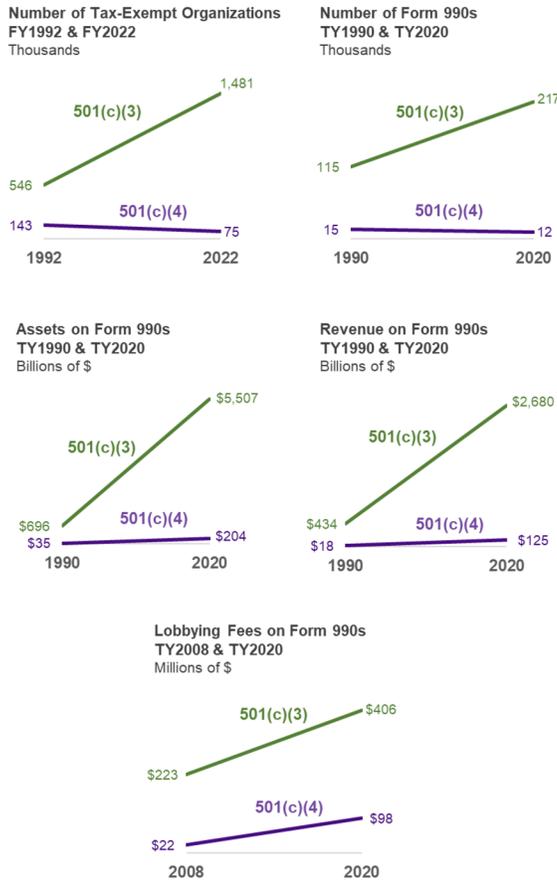
⁵⁷ Certain organizations, including many religious organizations, do not need to apply for tax-exempt status and are hence not included in these statistics. *Churches, Integrated Auxiliaries, and Conventions or Associations of Churches*, IRS, <https://www.irs.gov/charities-non-profits/churches-integrated-auxiliaries-and-conventions-or-associations-of-churches> (last visited December 11, 2023).

⁵⁸ This decrease in Section 501(c)(4) organizations between 1992 and 2002 may be the result of changes in filing requirements for small organizations and the removal of defunct organizations from the IRS database. See Koulish, *supra* note 20, at 11–12.

⁵⁹ *Id.*

⁶⁰ See, e.g., Koulish, *supra* note 20, at 4-7, 17-19.

Figure 1. Select IRS Data on 501(c)(3) and 501(c)(4) Tax-Exempt Organizations



Source: *SOI Tax Stats - Tax-Exempt Organizations and Nonexempt Charitable Trusts - IRS Data Book Tables 2, 3, 14, and 25, IRS, <https://www.irs.gov/statistics/soi-tax-stats-irs-data-book-index-of-tables> (last visited Dec. 11, 2023).*

Notes: FY is fiscal year; TY is tax year. The number of 501(c) organizations includes organizations that applied for and received recognition of tax-exempt status, or that are exempt by virtue of a tax treaty. Not all organizations described in section 501(c)(3) must apply for recognition of tax-exempt status, including churches, interchurch organizations of local units of a church, integrated auxiliaries of a church, conventions or associations of churches, and organizations (other than private foundations as described in section 509(a)) that have normal gross receipts in each taxable year of not more than \$5,000. Section 501(c)(3) organizations that have not applied for recognition of tax-exempt status are not included in this number. (Organizations may be recognized as tax exempt under section 501(c)(3) without filing an application if they are included in a group exemption letter given to an affiliated parent organization.) The first year the IRS reported lobbying fees was in 2008.

Current Donor Reporting Requirements for 501(c)(3) and 501(c)(4) Organizations

Under its constitutional taxing power, Congress has the authority to require organizations to provide certain information to the IRS for purposes of obtaining and establishing continued compliance with the requirements for tax exempt status.⁶¹ Section 6033 of the IRC prescribes the information required to be included in tax returns filed by exempt organizations.⁶² Subject to certain exceptions, tax-exempt organizations, including 501(c)(3) and 501(c)(4) organizations, must “file an annual return, stating specifically the items of gross income, receipts, and disbursements.”⁶³ In addition, Section 501(c)(3) organizations must include additional information in their returns, including “the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors.”⁶⁴ Apart from specifying information required to be in returns, section 6033 also imposes record-keeping requirements on tax-exempt organizations as the IRS may prescribe.⁶⁵

To implement the requirements of section 6033, the IRS has issued regulations⁶⁶ and guidance on the information to be provided by exempt organizations on their tax returns. The IRS has also created the various iterations of Form 990 (Return of Organization Exempt from Income Tax)⁶⁷ and its schedules. Section 501(c) organizations must generally file some version of IRS Form 990.⁶⁸ Organizations with gross receipts above \$50,000 are generally required to file a Form 990 or Form 990-EZ.⁶⁹ Private foundations file a Form 990-PF, regardless of financial status.⁷⁰ Organizations with gross receipts at or below \$50,000 are not required to file a Form 990, but may be required to file an annual electronic notice called a Form 990-N or “e-postcard.”⁷¹ Churches and other qualifying religious organizations are exempt from the annual information-reporting requirements.⁷² Unlike individual and corporate income tax returns, Form 990s filed by exempt organizations are generally available to the public, but public release of certain information is restricted.⁷³

⁶¹ U.S. CONST. amend. XVI, § 7; *Grove City Coll. v. Bell*, 465 U.S. 555, 575 (1984) (“Congress is free to attach reasonable . . . conditions” to voluntary federal subsidies).

⁶² I.R.C. § 6033.

⁶³ *Id.* § 6033(a)(1).

⁶⁴ *Id.* § 6033(b).

⁶⁵ *Id.* § 6033(a)(1);

⁶⁶ Treas. Reg. § 1.6033-2.

⁶⁷ IRS, Return of Organization Exempt From Income Tax (Form 990), <https://www.irs.gov/pub/irs-pdf/f990.pdf> (last visited Dec. 11, 2023).

⁶⁸ CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock (2020), at 3.

⁶⁹ *Form 990 Series Which Forms Do Exempt Organizations File Filing*, IRS, <https://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in> (last visited Dec. 11, 2023)

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *EO Operational Requirements: Private Foundations and Public Charities*, IRS, <https://www.irs.gov/charities-non-profits/churches-religious-organizations/filing-requirements-for-churches-and-religious-organizations> (last visited Dec. 10, 2023); CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock (2020), at 3.

⁷³ I.R.C. §§ 6103, 6104.

Form 990 collects information about the organization’s finances, assets, and activities.⁷⁴ The current Forms 990, 990-PF, and their instructions do not ask exempt organizations to report total amounts received from foreign contributions.

Schedule B of the Form 990 is the “Schedule of Contributors.”⁷⁵ Schedule B reports substantial contributions received, which is generally defined as contributions from a single source totaling \$5,000 or more during the tax year.⁷⁶ The current Schedule B and its instructions do not delineate between foreign and domestic contributions.⁷⁷ They do not have further instructions on reporting receipt of foreign contributions.⁷⁸ Except for Part III of Schedule B—which is applicable only to 501(c)(7), (8), and (10) organizations (generally lodges, fraternities, societies, and recreation clubs)⁷⁹—Schedule B does not ask the filer to report the purpose and use of contributions.⁸⁰

Under current IRS regulations in place since 2020,⁸¹ the donor information (i.e., names and addresses) required to be included by tax exempt organizations in their Schedule Bs differs depending on whether the organization is established under section 501(c)(3) or one of the other provisions of section 501(c). Mirroring the disclosure requirements of IRC section 6033, IRS regulations require 501(c)(3) organizations to disclose both the amount of significant contributions and information regarding the source of these contributions (i.e., the donor information).⁸² Section 501(c)(4) and other 501(c) organizations are not subject to a similar statutory requirement and do not have to disclose donor information on their Schedule Bs,⁸³ although they still must report the amount of each substantial contribution. They also must maintain internal records of the names and addresses of their substantial contributors and make those records available for inspection by the IRS.⁸⁴

Public Release of Donor Information

IRC section 6104 establishes an exception to the general rule regarding confidentiality of tax returns.⁸⁵ In general, under section 6104(b), the IRS must make available to the public the annual returns filed under section 6033, i.e., the various versions of Form 990 and its schedules.⁸⁶ Section 6104(b) does not,

⁷⁴ IRS, Return of Organization Exempt From Income Tax (Form 990), <https://www.irs.gov/pub/irs-pdf/f990.pdf> (last visited Dec. 11, 2023); CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock (2020), at 3.

⁷⁵ IRS, Schedule B (Form 990): Schedule of Contributors (2022), <https://www.irs.gov/pub/irs-pdf/f990ezb.pdf> (last visited Dec. 11, 2023).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 4.

⁸⁰ *Id.* at 2–3.

⁸¹ Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. 31959 (May 28, 2020) (codified at 26 C.F.R. 1). The IRS issued the final rule in 2020 after notice and comment rulemaking. The IRS tried in 2018 to implement substantially the same rules in Revenue Procedure 2018-38. A federal district court set aside the Revenue Procedure for failing to follow Administrative Procedure Act rulemaking requirements. *Bullock v. Internal Revenue Serv.*, 401 F. Supp. 3d 1144 (D. Mont. 2019); see also CRS Legal Sidebar LSB10187, *Nonprofit Donor Information Disclosure*, by David H. Carpenter (updated 2019).

⁸² I.R.C. § 6033(b); Treas. Reg. § 1.6033-2(a)(2)(ii)(F); Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. at 31966.

⁸³ Treas. Reg. § 1.6033-2(a)(2); Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. at 31966.

⁸⁴ Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. at 31966.

⁸⁵ I.R.C. § 6104.

⁸⁶ *Id.* § 6104(b).

however, authorize the IRS to disclose to the public the name or address of any contributor to a tax-exempt organization, except a contributor to a private foundation organized under section 501(c)(3).⁸⁷ Similarly, IRC section 6104(d) generally requires tax-exempt organizations to release their returns to a member of the public upon request.⁸⁸ An organization other than a 501(c)(3) private foundation is not, however, required to disclose to the public the names and addresses of its contributors.⁸⁹

In short, under current IRS regulations, when a 501(c)(3)⁹⁰ organization is a private foundation, the IRS will, and the private foundation must upon request, release the donor information included on its Schedule B.⁹¹ For all other 501(c)(3) organizations (i.e., public charities), however, the IRS will, and the organizations can, redact donor information on any publicly released Schedule B.⁹²

Table 2. Summary of Donor Disclosure Requirements on IRS Schedule B (Form 990) for Section 501(c)(3) and 501(c)(4) Organizations

	501(c)(3)		501(c)(4)
	Private Foundation	Public Charity	
Is the amount of significant contributions reported?	Yes	Yes	Yes
Is donor information (i.e., name and address) reported?	Yes	Yes	No
Is donor information released to the public?	Yes	No	N/A
			(Not reported in the first instance.)

Source: I.R.C. §§ 6104, 6033; Treas. Reg. § 1.6033-2(a)(2)(ii)(F); Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. 31959, 31966 (May 28, 2020) (codified at 26 C.F.R. § 1).

⁸⁷ *Id.*

⁸⁸ *Id.* § 6104(d).

⁸⁹ *Id.* § 6104(d)(3)(A).

⁹⁰ As explained above, a 501(c)(4) organization need not include donor information on the Schedule B.

⁹¹ 26 C.F.R. § 301.6104(d)-1(b)(4); *Public Disclosure and Availability of Exempt Organizations Returns and Applications: Contributors' Identities Not Subject to Disclosure*, IRS, <https://www.irs.gov/charities-non-profits/public-disclosure-and-availability-of-exempt-organizations-returns-and-applications-contributors-identities-not-subject-to-disclosure> (last visited Dec. 10, 2023).

⁹² *Id.* In a 2020 GAO report, a senior DOJ official stated that difficulty obtaining donor information reported to IRS impaired the Justice Department's law enforcement efforts. U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-66R, CAMPAIGN FINANCE: FEDERAL FRAMEWORK, AGENCY ROLES AND RESPONSIBILITIES, AND PERSPECTIVES (2020).

Chairman SCHWEIKERT. Thank you, Mr. Chung.
Mr. Walter.

**STATEMENT OF SCOTT WALTER, PRESIDENT, CAPITAL
RESEARCH CENTER**

Mr. WALTER. Chairmen Smith and Schweikert, Ranking Member Pascrell, distinguished members of the subcommittee, thank you for the honor of testifying. I am president of the Capitol Research Center, where we study how special interests engage in politics, especially through non-profits.

I am excited to be asked to discuss foreign money in American non-profits because in our deeply polarized world, foreign money in our politics is opposed by nearly everyone: left, right and center.

Last year, when I testified alongside today's Democratic witness, he raised the specter of illegal foreign contributions to 501(c)(4) non-profits and cited a journal article whose author insisted foreign donations pose "different and greater dangers" than legal domestic donations to (c)(4)s, donations often criticized as dark money. Our happy task of bringing left and right together on this threat should be even easier. Because by far, the largest case I know of where foreign money flows to American (c)(4)s and (c)(3)s involves a billionaire. While conservatives don't insist billionaires shouldn't even exist, as one Democratic member of this House has said, we do criticize billionaire donors when they improperly interfere with American politics, as when the Zuckerbergs gave a half billion dollars to manipulate the 2020 elections.

Today we can focus on the Swiss billionaire and foreign national, Hansjorg Wyss, who in the last two decades gave roughly a half billion dollars to America's largest dark money network, the sprawling empire run by Arabella Advisors. Don't think I am pushing a conspiracy theory. My written testimony carefully documents this foreign billionaire's meddling in American politics, citing only mainstream media sources: The New York Times, Politico, and the Associated Press, plus the Federal Election Commission's general counsel.

The FEC's general counsel notes Wyss illegally-made direct political contributions, though the statute of limitations has expired, giving to Senator Dick Durbin and Representatives Jay Inslee and Mark Udall, among others. The Associated Press calls Wyss a Democratic-aligned megadonor, and reports his non-profits helped "bankroll efforts to lift President Joe Biden's agenda, and† paid for TV ads promoting Democratic congressional candidates in the mid-terms."

The New York Times reports, "Tax filings show the Wyss Foundation and (c)(4) Berger Action Fund donated \$208 million from 2016 through 2020 to 3 other non-profit funds that doled out money to a wide array of groups that backed progressive causes and helped Democrats in their efforts to win the white House and control of Congress."

Beneficiaries of Wyss's direct giving included organizations that "ran voter registration and mobilization campaigns to increase Democratic turnout, and built media outlets accused of slanting the news to favor Democrats."

Politico reports Wyss gave \$1 million to the National Redistricting Action Fund, a sister group of Democrats' National Redistricting Hub. This is truly shocking: a foreign national billionaire appears to have affected the very membership of this House and this committee. The lines governing the districts you represent may have been carved in part by this foreign money. The same foreign cash may have funded the turnout efforts in your last elections.

Surely, we can all agree this is not the role of foreign billionaires. Note that this foreign billionaire wasn't operating alone. For two decades he has been joined at the hip with the undisputed heavy-weight of Democratic dark money, the Arabella Advisors empire. The non-profits run by Arabella include (c)(3)s and (c)(4)s. They are gargantuan. In the 2018 election cycle these non-profits raised \$1.2 billion; in 2020, 2.6 billion; in 2022, 3 billion.

Several remedies have been suggested to deal with this problem. Some are reasonable. For instance, legislation introduced into the House that would prohibit (c)(4)s that receive foreign cash from donating to super PACs for several years. Other responses include Professor Hackney's suggestion that private foundations be eliminated from the tax code, and my own think tank's suggestion that (c)(3) foundations and charities not be allowed to fund or execute voter registration and turnout.

The President of Wyss's Foundation and (c)(4), Molly McUsic, was involved in a massive (c)(3) voter registration scheme that is still active and deserves its own hearing.

Some people call for greater enforcement by the IRS, but we all know the IRS has been badly abused by both parties in the past, and is always likely to have partisans like Lois Lerner overseeing enforcement.

Lastly, there is the supposed all-purpose cure for everything non-profit, namely government-coerced donor disclosure. I am proud to stand with the NAACP of Bull Connor's 1950s Alabama and the NAACP of this afternoon who oppose that ugly intrusion on the privacy of American citizens. Thank you.

[The statement of Mr. Walter follows:]

Written Testimony

To House Ways and Means

Subcommittee on Oversight

Rep. David Schweikert, chairman

Scott Walter

President, Capital Research Center

December 13, 2023

Chairman Schweikert, Ranking Member Pascrell, distinguished members of the Subcommittee, thank you for the honor of testifying. I'm president of the Capital Research Center, and for decades we've studied the nonprofit world and its connections to politics.

I applaud the full Ways and Means Committee and this subcommittee for your attention to political abuses in the nonprofit sector, which do not receive nearly as much attention as they deserve from Congress and the media. Worse, the media typically spend much more time investigating the rightward end of the political spectrum, with long stories on donors like Charles Koch, and much less time investigating the leftward side, even though left-wing nonprofits enjoy far more money.¹

Perhaps the Left's growing dominance in riches explains why, in the last couple of years, the so-called mainstream media have finally been examining the left side of the nonprofit world in more detail and with a more critical eye, as my testimony will demonstrate. No longer do left-leaning philanthropies and charities always receive the benefit of the doubt that their every dollar spent, and their every effort undertaken, are beneficent, law-abiding, and aimed at healing the country's wounds.

I've been asked to focus especially on foreign money in nonprofits, which is eminently reasonable. Our country is increasingly polarized in many ways, but we possess near-universal agreement that foreigners and foreign money should *not* meddle in our politics. The overwhelming consensus in this area should make improvements possible.

¹ See for example, Shane Devine and Michael Watson, "Political and Policy-Oriented Giving After Citizens United: An Update to CRC's 2017 Analysis," Capital Research Center, December 17, 2020, <https://capitalresearch.org/article/political-and-policy-oriented-giving-after-citizens-united-an-update-to-crcs-2017-analysis>.

While both political parties have experienced abuses in the Super PAC arena over the years,² and those abuses have received attention from the Federal Election Commission (FEC) and the public, problems in 501(c)(3) and (c)(4) groups have been much less examined. By far the largest example of apparent abuses I'm aware of involves the nonprofits controlled by Swiss billionaire Hansjörg Wyss. Mr. Wyss has the Wyss Foundation, a (c)(3) private foundation, and the Berger Action Fund, a (c)(4) social welfare group.

Let us please have no claims that criticism of these two nonprofits arises from feverish right-wing conspiracy theories. Using only reports from non-conservative media sources we can see serious problems with these nonprofits. Permit me to quote some of the media reports at length.

In a *Politico* article last year, the headline and subtitle declared, "Liberal billionaire's nonprofit splashed \$56M in 2020: Berger Action Fund, founded by the Swiss-born billionaire Hansjörg Wyss, sent \$31 million of that money to Sixteen Thirty Fund, the left's leading 'dark-money' hub." *Politico* added:

Sixteen Thirty Fund spent widely on a range of liberal causes, from swing-state TV ads and left-leaning ballot measures, to campaigns opposing Trump's judicial picks and his health care and tax policies. It played a major role in the 2018 midterms as well, when Democrats flipped control of the House of Representatives.

* * *

Other major outlays by Berger Action Fund in the 2020 fiscal year included \$10.5 million to the Fund for a Better Future ... [which] distributed tens of millions of dollars to several nonprofits associated with Democratic super PACs in 2020....

Berger Action Fund also gave \$4.5 million to League of Conservation Voters ... \$2 million to Color of Change Education Fund, a racial justice group; and \$1.75 million to Center for American Progress Action Fund, the advocacy arm of the liberal think tank where Wyss sits on the board of directors.

Another four groups got \$1 million apiece, including National Redistricting Action Fund, a sister group of Democrats' national redistricting hub, which has funded lawsuits against GOP-drawn state political maps.³

² Axios reports, "Last year the Federal Election Commission fined Barry Zekelman, a Canadian billionaire, \$975,000 for steering some \$1.75 million to a pro-Trump super PAC in 2018. In 2019, the FEC issued \$940,000 in fines to the super PAC supporting former Florida Gov. Jeb Bush's 2016 presidential bid and a Chinese-owned corporation that made illegal donations to it. In 2002, the FEC imposed \$719,000 in fines in response to a 1996 Democratic Party fundraising scandal involving donations from China, Korea and other foreign sources." Hans Nichols and Stef W. Kight, "GOP plan targets foreign dark money for 2024," Axios, July 10, 2023, <https://www.axios.com/2023/07/10/gop-targets-foreign-dark-money-2024-election>.

³ Scott Bland, "Liberal billionaire's nonprofit splashed \$56M in 2020," *Politico*, March 18, 2022, <https://www.politico.com/news/2022/03/18/liberal-billionaire-nonprofit-dark-money-00018513>.

The *New York Times* has also reported on Wyss's political activities. In a 2021 article, a *Times* reporter not only described Wyss's powerful influence on our politics but also pushed back on his claims not to be influencing American politics and elections:

Newly obtained tax filings show that [the Wyss Foundation and Berger Action Fund] donated \$208 million from 2016 through early last year to three other nonprofit funds that doled out money to a wide array of groups that backed progressive causes and helped Democrats in their efforts to win the White House and control of Congress last year.

Mr. Wyss's representatives say his organizations' money is not being spent on political campaigning. But documents and interviews show that the entities have come to play a prominent role in financing the political infrastructure that supports Democrats and their issues.

Beneficiaries of his organizations' direct giving included ... organizations that ran voter registration and mobilization campaigns to increase Democratic turnout, built media outlets accused of slanting the news to favor Democrats and sought to block Mr. Trump's nominees, prove he colluded with Russia and push for his impeachment.

Several officials from organizations started by Mr. Wyss and his team worked on the Biden transition or joined the administration, and on environmental policy in particular Mr. Wyss's agenda appears to align with President Biden's.

* * *

...tax filings submitted by the Sacramento-based Fund for a Better Future, which passes money from donors to groups that push to shape the political process in a way that helps Democrats ... has received the majority of its funding — nearly \$45.2 million between the spring of 2016 and the spring of 2020 — from the Berger Action Fund....

...Among the groups under the umbrella of [Arabella Advisors'] Sixteen Thirty and New Venture is the Hub Project, which was started by Mr. Wyss's philanthropic network in 2015 as a sort of incubator for groups backing Democrats and their causes, as first reported by The Times. It created more than a dozen groups with anodyne-sounding names that planned to spend \$30 million attacking Republican congressional candidates before the 2018 election.⁴

One more non-conservative outlet, the Associated Press, this year published a similar article highlighting the highly political uses to which Wyss's nonprofit funds are put:

The Berger Action Fund is a nondescript name for a group with a rather specific purpose: steering the wealth of Hansjörg Wyss, a Swiss billionaire, into the world of American politics and policy.

⁴ Ken Vogel, "Swiss Billionaire Quietly Becomes Influential Force Among Democrats," *New York Times*, May 3, 2021, <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

As a foreign national, Wyss is prohibited from donating to candidates or political committees. But his influence is still broadly felt through millions of dollars routed through a network of nonprofit groups that invest heavily in the Democratic ecosystem.

Newly available tax documents show that his giving through the [501(c)(4)] Berger Action Fund ... swelled in 2021 to \$72 million, cementing Wyss' status as a Democratic-aligned megadonor.

Representatives for Wyss insist they comply with laws governing the giving of foreign nationals and have put in place strict policies limiting the use of donations to "issue advocacy"—not partisan electoral activities. But the fact that the money cannot be publicly traced highlights the difficulty of putting such assertions to the test.

Those same groups have helped to bankroll efforts to lift President Joe Biden's agenda and paid for TV ads promoting Democratic congressional candidates ahead of last year's midterm elections.⁵

I apologize for quoting at such length, but the cumulative weight of these mainstream news reports proves just how extensive are the political entanglements that connect Mr. Wyss, his (c)(3) foundation, and his (c)(4) action fund, on the one hand, and, on the other hand, the network of nonprofits managed by Arabella Advisors, which runs "the left's leading 'dark-money' hub," as *Politico* puts it. Arabella's nonprofit empire involves, as the *New York Times* describes it, "an opaque network managed by a Washington consulting firm" that has "funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes. The system of political financing, which often obscures the identities of donors, is known as dark money, and Arabella's network is a leading vehicle for it on the left."⁶

My colleagues at the Capital Research have totaled the revenues taken in just on the nonprofit side of the Arabella empire, which comprises six (c)(3) and (c)(4) groups that in turn fiscally sponsor over 500 "projects" for Mr. Wyss and other billionaires. In the two years of the 2018 election cycle, Arabella's nonprofits' combined revenues were \$1.2 billion; for the 2020 cycle, \$2.6 billion; for the 2022 cycle, \$3 billion.⁷

Mr. Wyss's entanglement with Arabella goes back decades, almost to the empire's beginning. The Wyss Foundation began making six-figure annual grants to Arabella's New Venture Fund (then the "Arabella Legacy Fund") in 2007, just one year after the fund's creation. His foundation's 2007 grant accounted for 55 percent of New Venture Fund's revenues for that year. At least one Wyss Foundation staffer, Kyle Herring, jumped ship to Arabella. Herring, a

⁵ Brian Slodysko, "Group steers Swiss billionaire's money to liberal causes," Associated Press, April 4, 2023, <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

⁶ Ken Vogel, "Top Bidder for Tribune Newspapers Is an Influential Liberal Donor," *New York Times*, April 17, 2021, <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

⁷ See "Arabella Advisors," InfluenceWatch, <https://www.influencewatch.org/for-profit/arabella-advisors/#network-financial-overview>.

Wyss Foundation staffer from 2012 to 2013, has served on the advisory boards of at least five New Venture Fund projects.⁸ He now runs the left-of-center activist group Accountable.US.⁹

Both the Wyss-run nonprofits and the Arabella-run nonprofits like to claim they're mild-mannered, compassionate, and vaguely charitable operations just trying to make the world a better place, but one data point alone makes laughable these claims to be apolitical: Both the Wyss Foundation and Arabella nonprofits use the Elias Law Group, run by Marc Elias, the so-called Democratic super-lawyer known for his bare-knuckles partisanship. In 2022, the Wyss Foundation's IRS Form 990 reports \$61,251 in compensation to Elias's firm.¹⁰ The same form reports the foundation made \$346,905 in payments to Global Strategy Group, a public relations firm which brags that its pollsters helped win Democratic majorities in the House and Senate.¹¹

The strongest evidence that improper foreign intervention in American elections has resulted from Mr. Wyss's mixing foreign funds with American nonprofits comes from the Federal Election Commission. In May 2021, the right-leaning Americans for Public Trust filed a complaint with the Federal Election Commission, arguing the evidence already available indicates "Mr. Wyss indirectly funded federal electoral advocacy through his nonprofit organizations, the Wyss Foundation and the Berger Action Fund. The intended recipient of these funds was ultimately a variety of organizations whose primary purpose is to engage in electoral advocacy."¹²

The complaint observed that "the law prohibits foreign nationals from making contributions to political committees whether directly or indirectly." Unfortunately, the Federal Elections Commission (FEC) did not promptly act on this complaint, so after waiting a year, Americans for Public Trust filed a lawsuit¹³ in April 2022, aiming to prod the Commission to investigate Wyss's alleged illegal donations to left-wing groups and various Democratic politicians. The plaintiff observed that FEC records already showed illegal *direct* donations to politicians, including Sen. Dick Durbin (D-IL) and former Rep. Jay Inslee (D-WA)—now governor of Washington State—and former Rep. Mark Udall (D-CO), who was later elected to the Senate.¹⁴ (The statute of limitations on those illegal donations has expired.) The plaintiff also noted that Wyss has claimed to support senators for election.¹⁵

⁸ Hayden Ludwig, "Arabella's Long War," Capital Research Center, November 12, 2021, <https://capitalresearch.org/article/arabellas-long-war-part-2/>.

⁹ "Kyle Herring," InfluenceWatch, <https://www.influencewatch.org/person/kyle-herring/>.

¹⁰ "Wyss Foundation," InfluenceWatch, <https://www.influencewatch.org/app/uploads/2023/12/Wyss-Foundation-Form-990-2022.pdf>.

¹¹ *Ibid.* And see the Global Strategy Group's "About GSG" page, <https://globalstrategygroup.com/about/>: "As top Democratic pollsters, we have worked for dozens of winning campaigns and political organizations. Our work was pivotal in helping Democrats secure today's majorities in the US House of Representatives and Senate."

¹² Melissa Klein, "Watchdog calls for probe into Swiss billionaire's US political spending," *New York Post*, May 15, 2021, <https://nypost.com/2021/05/15/watchdog-calls-for-probe-into-swiss-billionaires-political-spending/>.

¹³ Americans for Public Trust, "APT Files Lawsuit Against FEC Seeking Action Regarding Alleged Illegal Foreign Contributions," April 25, 2022, <https://americansforpublictrust.org/news/apt-files-lawsuit-against-fec-seeking-action-regarding-alleged-illegal-foreign-contributions%ef%bf%bc/>.

¹⁴ Wyss's direct donations remain in FEC records: https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=Wyss%2C+Hansjoerg&contributor_name=Wyss%2C+Hansjoerg.

¹⁵ See Giorgio V. Müller, "We have found a good home for Synthès," *Neue Zürcher Zeitung*, June 11, 2011, https://www.nzz.ch/wir_haben_ein_gutes_heim_fuer_synthes_gefunden-ld.589550. In Google's translation, Wyss

As the lawsuit pressed on the Commission, the FEC's general counsel finally produced a document with recommendations for what the Commission should do regarding Wyss and his relations with the Arabella network. The general counsel said an investigation into Arabella's Sixteen Thirty Fund's relations with its largest grant recipients in the 2018 and 2020 election cycles should be conducted, to see if the group should have been registered as a PAC, rather than a 501(c)(4) nonprofit. Even on the basis of evidence already available, the general counsel found grave violations and recommended that the FEC "Find reason to believe that the Sixteen Thirty Fund and The Hub Project"—the latter launched and sustained through the Arabella network by Wyss and his nonprofits—had "violated 52 U.S.C. §§ 30102, 30103, and 30104 by not registering as a political committee and meeting the Act's organizational, recordkeeping, and reporting requirements."

The complaint to which the FEC general counsel responded alleges that "The Hub Project has served as a vehicle for the political spending of Mr. Wyss. This is demonstrated by the fact that Mr. Wyss has not publicly disclosed his role in founding the Hub Project. Neither his influence nor his financial support can be found anywhere on the group's website."¹⁶

Indeed, the *New York Times* reporter who first exposed the Hub Project only learned of Wyss's connection to the project with the help of "interviews with five people with knowledge of The Hub Project, an internal memo from another liberal group that was obtained by The New York Times, and the appearance of The Hub Project's business plan in a tranche of data made public by WikiLeaks."¹⁷

The inauguration of Joseph Biden as President only led to more influence for Wyss. "Several officials from the Hub Project were hired by the Biden administration," the *Times* reports, "including Rosemary Enobakhare, a former Environmental Protection Agency official in the Obama administration who returned to the agency under Mr. Biden; Maju Varghese as director of the White House Military Office; and Janelle Jones as chief economist for the Labor Department." Then there's Wyss's top aide, Molly McUsic, president of both the Wyss Foundation and Berger Action Fund (and former Arabella Sixteen Thirty Fund board member): she "was a member of the Biden transition team that reviewed Interior Department policies and personnel."

Even more disturbing, given the Ways and Means Committee's responsibility for overseeing the nonprofit sector, is the fact that Joe Biden might never have had any transition team in 2020, were it not for what Ms. McUsic, using her Wyss Foundation email account, was discussing in 2015 with John Podesta, then the presumptive head of Hillary Clinton's 2016 presidential campaign.

As a Capital Research Center colleague has reported on at length, McUsic helped to launch a "massive [voter] registration surge" that spanned two presidential elections (and counting) and consumed over \$150 million in funds from 501(c)(3) private foundations and

says of his time in America during the George W. Bush administration, "I already had three foundations and supported senators."

¹⁶ *Americans for Public Trust v. Federal Election Commission*, May 14, 2021, https://www.fec.gov/resources/cms-content/documents/afpt_compl_for_declaratory_and_injunctive_relief_04-25-2022.pdf.

¹⁷ Vogel, "Top Bidder for Tribune Newspapers Is an Influential Liberal Donor," *New York Times*, April 17, 2021, <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

public charities.¹⁸ The funds were channeled through (c)(3) “charities,” which microtargeted voters in a handful of swing states in the 2016 and 2020 cycles, registering millions of persons. One of McUsic’s Wyss Foundation emails to Podesta was labeled “new c3 version,” and it had a Word file attachment from a for-profit Democratic consulting firm which had altered its partisan voter registration program in hopes of squeezing it into a campaign to which (c)(3) foundations and donor-advised funds could legally contribute, and which (c)(3) charities could carry out.¹⁹ To understand the kind of fig leaves the “new c3 version” put on top of the scheme’s original partisan language, consider that a reference to changing the “outcome of an election”—something forbidden to charities and private foundations—was switched to changing the “competitiveness of an election.” Sometimes no fig leaf could be found that was large enough to camouflage the partisanship, as when three entire paragraphs in the original version had to be deleted, because they calculated how targeted voter registration could have turned three past elections won by Republicans into Democratic victories.

This Voter Registration Project effort, midwifed by the Wyss Foundation, has continued to grow and aims to be central in the 2024 presidential election. Capital Research Center has just acquired the latest IRS Form 990 for the “charity” at the center of this scheme (the Voter Registration Project), which reveals that in 2022 the group’s revenues rose to \$46 million, compared to \$17 million the previous year, with the total number of employees rising to 42.²⁰ The Form 990 also indicates that the group’s second-largest independent contractor, to which it paid \$233,750 in 2022, is Catalist LLC, described by the *New York Times* as a “Democratic data firm.”²¹

This dubious (c)(3) voter registration nonprofit is related to a concern raised by the Ways and Means Committee in its August 14, 2023 Request For Information. The Committee cited a 2020 donor strategy memo from the Mind the Gap Super PAC launched by Sam Bankman-Fried’s mother, which declared that “the single most effective tactic for ensuring Democratic victories” was to send money to targeted (c)(3) voter registration efforts.²² The two (c)(3) groups recommended to donors were the Voter Registration Project and the Voter Participation Center. I regret to inform the Committee that the same Super PAC has had its 2024 donor strategy memo leak, and once again the Super PAC declares its presidential strategy is “to massively scale high-performing voter registration and mobilization programs.” This time they recommend only one grantee, the (c)(3) Voter Registration Project charity that our report highlighted. The Super PAC adds that this charity’s voter registration work, along with voter-mobilization radio ads through

¹⁸ See Parker Thayer, “How Charities Secretly Help Win Elections,” Capital Research Center, <https://capitalresearch.org/app/uploads/CRC-Voter-Registration-Report.pdf>. Appendix 4, “Grants to the VRP Network,” identifies all known contributors (totaling \$154,853,011) and identifies whether they are 501(c)(3)s, (c)(4)s, or (c)(5)s.

¹⁹ McUsic’s email is available at <https://web.archive.org/web/20220909192538/https://www.wikileaks.org/podesta-emails/emailid/8885>. The attached Word file with edits visible is available at <https://www.influencewatch.org/app/uploads/2022/07/Corridor-Partners-Plan-.pdf>.

²⁰ “Voter Registration Project,” InfluenceWatch, <https://www.influencewatch.org/non-profit/voter-registration-project/>.

²¹ Blake Hounshell, “Five Takeaways From a Red Wave That Didn’t Reach the Shore,” *New York Times*, November 10, 2022, <https://www.nytimes.com/2022/11/09/us/politics/midterm-elections-takeaways.html>.

²² The Super PAC memo is available at Theodore Schleifer, “Inside the secretive Silicon Valley group that has funneled over \$20 million to Democrats,” *Fox*, January 6, 2020, <https://www.fox.com/recode/2020/1/6/21046631/mind-the-gap-silicon-valley-democratic-donors-stanford>.

American Independent Radio, “are projected to generate more net Democratic votes dollar for dollar than virtually any other tactic this cycle.”²³

With this kind of abuse that turns charitable dollars into political dollars, no wonder the nonprofit sector finds itself facing calls for radical changes. For example, the subcommittee’s Democrats have invited to this hearing as their witness professor Philip Hackney, who has written that “we ought to eliminate tax benefits for the private foundation form.”²⁴ The professor may find himself surprised to have Senator J.D. Vance (R-Ohio) as a possible ally in this fight. It brings to mind how the Ford Foundation’s grants for partisan voter registration in 1967 so outraged Congress, both of whose houses were under Democratic control, that it passed the landmark Tax Reform Act of 1969, whose restrictions still largely shape what’s legally permissible for private foundations and public charities in this area.²⁵

Will Stricter IRS Enforcement or Forced Donor Disclosure Save Us?

The changes in the nonprofit sector most likely to be called for after an examination of foreign money abuses by the likes of Hansjörg Wyss are first, stricter enforcement of rules by the IRS, and second, government-coerced disclosure of donors. But calls for harsher IRS enforcement are unlikely to bring greater fairness or banish illegal behavior. As I testified last year to the Senate Finance Subcommittee on Taxation and IRS Oversight, we must never forget “the terrible temptations the IRS places before administrations of both parties. From FDR through Nixon, the IRS repeatedly used selective enforcement as a political weapon, and entire books have been needed to chronicle this ugly abuse of governmental power.”²⁶

IRS officials like the Obama-Biden Administration’s notorious Lois Lerner will, all too often, control IRS enforcement. In the same testimony, I noted that the subcommittee’s chairman, Senator Sheldon Whitehouse (D-R.I.), had himself held a hearing to demand enhanced IRS enforcement a decade earlier, in April 2013, only to have the Lois Lerner scandal erupt a month later. Her improper suppression of conservative-leaning nonprofits seeking recognition—which a study by academics from Harvard’s Kennedy School, Stockholm University, and AEI found likely had a powerful effect on the 2012 election²⁷—caused even Senator Whitehouse to address

²³ Teddy Schleifer, “The Stratosphere,” Puck News, https://puck.news/newsletter_content/sam-i-am-2/.

²⁴ Philip Hackney, “The 1969 Tax Reform Act and Charities: Fifty Years Later,” *Pittsburgh Tax Review* Volume 17 (2020): 246, <https://doi.org/10.5195/taxreview.2020.116>.

²⁵ See Michael E. Hartmann, “The Ford Foundation, the 1967 Cleveland mayoral election, and the 1969 Tax Reform Act,” *The Giving Review*, February 3, 2021, <https://www.philanthropydaily.com/the-ford-foundation-the-1967-cleveland-mayoral-election-and-the-1969-tax-reform-act/>.

²⁶ Scott Walter, “Testimony before the U.S. Senate Finance Subcommittee on Taxation and IRS Oversight Hearing on ‘Laws and Enforcement Governing the Political Activities of Tax Exempt Entities,’” May 4, 2022, <https://capitalresearch.org/article/scott-walter-testifies-to-a-senate-finance-subcommittee-on-the-political-activities-of-tax-exempt-entities/>. For a book-length treatment of IRS abuses by both parties written by a *New York Times* reporter, see David Burnham, *A Law Unto Itself: Power, Politics, and the IRS* (Oregon: Book News, Inc., 1990).

²⁷ Stan Veuger, “Yes, IRS Harassment Blunted The Tea Party Ground Game,” RealClearMarkets, June 20, 2013, https://www.realclearmarkets.com/articles/2013/06/20/yes_irs_harassment_blunted_the_tea_party_ground_game_100412.html. “Obama’s margin of victory in some of the key swing states was fairly small: a mere 75,000 votes separated the two contenders in Florida, for example. That is less than 25% of our estimate of what the Tea Party’s impact in Florida was in 2010.”

the Senate on “the scandal that the IRS appears to have targeted organizations for inquiry based on Tea Party affiliation. Obviously, that’s wrong.”²⁸

Similarly, having the government force disclosure of nonprofit donors is not desirable, and much of the conversation surrounding donor disclosure is disingenuous. We hear wild denunciations of “dark money” hiding in the shadows, and yet no legal definition of these monies appears, even in hearings in places like the Senate Judiciary Committee or Senate Finance’s IRS Oversight Subcommittee. Is it money in 501(c)(3) nonprofits? in (c)(4) nonprofits? (c)(6)s? in donor-advised funds? I’ve yet to learn which ones define “dark money,” even though a clear definition would be made if, in fact, those who complain about “dark money” were raising the issue in good faith, rather than invoking it as a vague insult that drives attention away from the substance of public policy debates like, say, the proper judicial philosophy for a judge.

In hearings on “dark money” where I’ve testified, I’ve heard advocates for disclosure reveal that they believe donor disclosure will harm both the donors and the grantees forced to disclose.²⁹ That raises my central criticism of forced government disclosure: *As a defender of citizens’ privacy, I do not wish to harm donors and groups I disagree with, and I respectfully urge others to end their campaign to harm donors and groups they disagree with.* Of course, that objection applies to U.S. citizens, whose rights should be protected, not to foreigners with no claim to those rights.

None of this means there is no hope for improvement. Carefully targeted legislation has the potential to substantially affect such problems as indirect foreign funding of American politics; for example, the ACE Act introduced in the House Administration Committee would ban (c)(4) nonprofits from contributing to political committees for four years if they accept donations of foreign money, and would also bar foreign nationals from giving to state ballot initiatives, which can be supported by (c)(3) charities.³⁰ State attorneys general are also becoming more engaged in overseeing nonprofits in their jurisdictions, for good or ill, which may deter some bad behavior even as it will sometimes be the attorneys general who themselves behave with improper partisanship.

There are no final solutions to these problems of our republic, and anyone who claims to have a final solution should not be trusted. I agree with my fellow witness professor Hackney, who wrote, “I believe deeply in the power of a fiercely independent and courageous civil society that empowers the voices of all in our communities.”³¹ But that will require protecting our nonprofits, especially our charities, from the abuses of foreign money and from improper politicization.

²⁸ Sheldon Whitehouse, “The Two Scandals at the IRS: As Prepared for Delivery on the Senate Floor,” <https://www.whitehouse.senate.gov/news/press-releases/the-two-scandals-at-the-irs>.

²⁹ See Scott Walter, “Highlights from Scott Walter’s Answers to Questions for the Record from Sen. Whitehouse,” Capital Research Center, April 15, 2021, <https://capitalresearch.org/article/highlights-from-scott-walters-answers-to-questions-for-the-record-from-sen-whitehouse/>.

³⁰ Committee on House Administration, “Chairman Steil Introduces American Confidence in Elections Act,” July 10, 2023, <https://cha.house.gov/2023/7/chairman-steil-introduces-american-confidence-elections-act>.

³¹ Hackney, “The 1969 Tax Reform Act and Charities: Fifty Years Later,” *Pittsburgh Tax Review*, Volume 17 (2020): 245, <https://doi.org/10.5195/taxreview.2020.116>.

**STATEMENT OF STEWART WHITSON, LEGAL DIRECTOR,
FOUNDATION FOR GOVERNMENT ACCOUNTABILITY**

Mr. WHITSON. Chairman Smith, Chairman Schweikert, Ranking Member Pascrell, members of the committee, good afternoon. My name is Stewart Whitson, and I am the legal director at the Foundation for Government Accountability. FGA is a non-partisan, non-profit organization that seeks to enhance the lives of all Americans by improving welfare, workforce, health care, and election integrity policy at the state and Federal levels.

During the 2020 election, the Chan Zuckerberg Initiative donated more than \$400 million to fund election activities. Most of those funds, coined Zuckerbucks, were provided to the center for Tech and Civic Life, a left-leaning non-profit run by a former Obama Foundation fellow. Marketed as money for purchasing personal protective equipment in response to COVID-19, the funds were instead used primarily to drive procedural changes and get out the vote efforts that benefitted the left.

Groundbreaking research and analysis by my colleagues at FGA revealed large disparities in Zuckerbucks funding allocation. Counties won by President Biden in 2020 received significantly more in Zuckerbucks funding than counties won by former President Trump. The infusion of cash into certain jurisdictions, those that leaned heavily Democrat, drove up voter turnout in blue districts and allowed partisanship to weasel its way into the one part of elections that is supposed to be non-partisan.

In other words, it appears that CTCL, a 501(c)(3) organization, used Zuckerbucks to hijack and transform the government itself into a partisan get-out-the-vote tool. Recognizing the danger posed by CTCL's efforts, 27 states have passed Zuckerbucks bans, some bipartisan, prohibiting local governments from applying for, accepting, or spending any private funding for election administration.

Unfortunately, CTCL seems to be actively working to sidestep these new state laws by rebranding itself as the U.S. Alliance for Election Excellence. According to an announcement made by CTCL, the new program will distribute at least \$80 million in funding across the country, while providing coaching and other support to a select group of local election officials. CTCL appears to have abused its 501(c)(3) tax exempt status in 2020, and it may be actively working to do so again in 2024.

But unfortunately, CTCL isn't the only 501(c)(3) group whose actions should draw serious concern from this committee. There is another group, Demos, that appears to be an even graver concern.

So back in March 2021, President Biden signed Executive Order 14019. We call this scheme Bidenbucks because it is Zuckerbucks on steroids. Instead of Mark Zuckerberg, it is President Biden. And instead of \$400 million, it is unlimited funding, resources, and reach of the Federal Government and its offices located in states across the country. The order commands the head of every Federal agency to develop a plan to do two things: promote voter registration and promote voter participation.

The order also commands all Federal agencies to solicit and support "approved third-party organizations" to allow them to use Federal resources to register and mobilize the voters these groups target, and to do so on Federal property located in every state.

So which groups will receive this special approval? We don't know, because the Biden Administration refuses to disclose the list or even the criteria for approval, not only to FGA, but to the dozens of Members of Congress who have demanded answers, as well.

Fortunately, Bidenbucks has not gone unnoticed by Congress. And in fact, one of the members of this committee, Congresswoman Claudia Tenney, has introduced legislation to defund the Bidenbucks executive order.

In addition, dozens of members from both the House and the Senate have demanded transparency from the Biden Administration, calling out Demos for its outsized role in what appears to be an unlawful, partisan effort to keep the current President's political party in power.

So with that I thank the chairman for the opportunity to provide testimony today, and I look forward to answering any questions you might have.

[The statement of Mr. Whitson follows:]



**TESTIMONY FOR HEARING ON
“GROWTH OF THE TAX-EXEMPT
SECTOR AND THE IMPACT ON THE
AMERICAN POLITICAL LANDSCAPE”**

Presented to

Ways and Means Subcommittee on Oversight
United States House of Representatives

December 13, 2023

Stewart Whitson, *Legal Director*
Foundation for Government Accountability

Mr. Chairman, Ranking Member, Members of the Committee: Good afternoon. My name is Stewart Whitson, and I am the Legal Director at the Foundation for Government Accountability (FGA).

FGA is a non-partisan, non-profit organization that seeks to enhance the lives of all Americans by improving welfare, workforce, health care, and election integrity policy at the state and federal levels.

During the 2020 election, the Chan Zuckerberg Initiative donated more than \$400 million to fund election activities.¹

Most of those funds, coined “Zuckerbucks,” were provided to the Center for Tech and Civic Life (CTCL), a left-leaning non-profit run by a former Obama Foundation fellow.² Marketed as money for purchasing personal protective equipment in response to COVID-19, the funds were instead used primarily to drive procedural changes and get-out-the-vote efforts that benefited the Left.

Groundbreaking research and analysis by my colleagues at FGA revealed large disparities in Zuckerbucks funding allocation. Counties won by President Biden in 2020 received significantly more in Zuckerbucks funding than counties won by former President Trump.³⁻⁴ The infusion of cash into certain jurisdictions—those that leaned heavily Democrat—drove up voter turnout in blue districts and allowed partisanship to weasel its way into the one part of elections that is supposed to be non-partisan.⁵⁻⁶⁻⁷ In other words, it appears that CTCL, a 501c3 organization, used Zuckerbucks to hijack and transform the government itself into a partisan get-out-the-vote tool.

Recognizing the danger posed by CTCL’s efforts, 27 states have passed Zuckerbucks bans, some bipartisan, prohibiting local governments from applying for, accepting, or spending any private funding for election administration. Unfortunately, CTCL seems to be actively working to sidestep these new state laws by rebranding itself as “the U.S. Alliance for Election Excellence.”⁸ According to an announcement made by CTCL, the new program will distribute at least \$80 million in funding across the country while providing “coaching” and other support to a select group of local election officials who pass a “verification and review process.”⁹⁻¹⁰ CTCL appears to have abused its 501c3 tax-exempt status in 2020, and may be actively working to do so again in 2024.¹¹

Unfortunately, CTCL isn’t the only 501c3 group whose actions should draw serious concern from this committee. There is another group, Demos, that appears to be an even graver concern.

Back in March 2021, President Biden signed Executive Order 14019. We call this scheme “Bidenbucks” because it is Zuckerbucks on steroids. Instead of Mark Zuckerberg, it’s President Biden, and instead of \$400 million dollars, it is the unlimited power, resources, and reach of the federal government and its offices located in states across the country.

The order commands the head of every federal agency to develop a plan to do two things: Promote voter registration *and* promote voter participation.¹² The order also commands all federal agencies to solicit and support “approved” third-party organizations to allow them to use federal resources to register and mobilize the voters these groups target, and to do so on federal property located in every state.¹³ Which groups will receive this special “approval?” We don’t know, because the Biden administration refuses to

disclose the list or even the criteria for approval, not only to FGA, but to the dozens of members of Congress who have demanded answers as well.

And, again, Demos, a 501c3 tax-exempt organization, is at the heart of this order—its creation *and* its implementation.¹⁴ At the end of the day, this appears to be no more than a *targeted* get-out-the-vote scheme designed by the Left to benefit the Left, all paid for by federal taxpayers.

Fortunately, Bidenbucks has not gone unnoticed by Congress. In fact, one of the members of this committee, Congresswoman Claudia Tenney, has introduced legislation to defund the Bidenbucks Executive Order.¹⁵ In addition, dozens of members from both the House and Senate have demanded transparency from the Biden administration, calling out Demos for its outsized role in what appears to be an unlawful, partisan effort to keep the current president’s political party in power.¹⁶⁻¹⁷⁻¹⁸⁻¹⁹

With that, I thank the Chairman for the opportunity to provide this testimony, and I look forward to answering any questions you might have.

¹ “Press Release: CTCL Receives Additional \$100M Contribution to Support Critical Work of Election Officials,” Center for Tech and Civic Life (2020), <https://www.techandcivicle.org/100m/>.

² Tiana Epps-Johnson, Center for Tech and Civic Life, <https://www.techandcivicle.org/team/tiana-epps-johnson/>.

³ Hayden Dublois, “How ‘Zuckerbucks’ infiltrated and influenced the 2020 Florida election,” Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-infiltrated-florida-election/>.

⁴ Hayden Dublois and Jonathan Bain, “How ‘Zuckerbucks’ infiltrated and influenced the 2020 Iowa election,” Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-iowa-election/>.

⁵ Hayden Dublois and Tyler Lamensky, “Zuckerberg went down to Georgia: How Zuckerbucks influenced the Georgia elections,” Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-influenced-georgia-elections/>.

⁶ Alli Fick and Tyler Lamensky, “How Zuckerbucks infiltrated the Wisconsin election,” Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-wisconsin-election/>.

⁷ Trevor Carlsen, “Show Me the Zuckerbucks: Outside money infiltrated Missouri’s 2020 election,” Foundation for Government Accountability (2021), <https://thefga.org/research/show-me-the-zuckerbucks-outside-money-infiltrated-missouris-2020-election/>.

⁸ Center for Tech and Civic Life, “CTCL launches the U.S. Alliance for Election Excellence,” Center for Tech and Civic Life (2022), <https://www.techandcivicle.org/us-alliance-for-election-excellence-launch/>.

⁹ *Id.*

¹⁰ U.S. Alliance for Election Excellence, “A community of support focusing on the fundamentals of democracy,” U.S. Alliance for Election Excellence (2022), <https://www.electionexcellence.org/>.

¹¹ Foundation for Government Accountability, “New funding program launched by Center for Tech and Civic Life could sidestep state bans on private funding of local elections – Including bans on Zuckerbucks,” Foundation for Government Accountability (2022), <https://thefga.org/press/new-funding-program-launched-by-center-for-tech-and-civic-life-could-sidestep-state-bans-zuckerbucks/>.

¹² “Presidential Executive Order 14019, Promoting Access to Voting,” Federal Register, National Archives (March 7, 2021), <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

¹³ *Id.*

¹⁴ Stewart Whitson, “Biden’s Unlawful Plan to Federalize Elections,” *The American Spectator* (October 22, 2021), <https://spectator.org/bidens-unlawful-plan-to-federalize-elections/>.

¹⁵ “Congresswoman Tenney Introduces the Promoting Free and Fair elections Act,” Office of Rep. Claudia Tenney (2023), <https://tenney.house.gov/media/press-releases/congresswoman-tenney-introduces-promoting-free-and-fair-elections-act>.

¹⁶ “Rep. Ted Budd Leads Coalition Calling For An Investigation Of Biden’s Executive Order On Voting,” Office of Rep. Ted Budd (2022), <https://budd.house.gov/news/documentsingle.aspx?DocumentID=1357>.

¹⁷ “Nine House Republican Committee Leaders Raise Concerns On Biden Administration Directing Federal Agencies To Engage In Voting Access & Registration Activities,” Committee on House Administration, Ranking Member Rodney Davis (2022), <https://republicans-cha.house.gov/media/press-releases/nine-house-republican-committee-leaders-raise-concerns-biden-administration>.

¹⁸ “Rep. Norman Leads Letter Demanding the Department of Justice Disclose Its Plans to Carry Out President Biden’s Executive Order to ‘Promote Voter Registration and Voter Participation,’” Office of Rep. Ralph Norman (2022), <https://norman.house.gov/news/documentsingle.aspx?DocumentID=1494>.

¹⁹ "Hagerty and Colleagues Call Out Biden for Ignoring Demands for Transparency on Taxpayer-Funded Voter-Mobilization Plans," Office of Sen. Bill Hagerty (2023), <https://www.hagerty.senate.gov/press-releases/2023/11/29/hagerty-and-colleagues-call-out-biden-for-ignoring-demands-for-transparency-on-taxpayer-funded-voter-mobilization-plans/>.

Chairman SCHWEIKERT. Professor.

**STATEMENT OF PHILIP HACKNEY, ASSOCIATE PROFESSOR OF
LAW, UNIVERSITY OF PITTSBURGH**

Mr. HACKNEY. Chair Smith, Chair Schweikert, Ranking Member Pascrell, distinguished members of the subcommittee, thank you for inviting me to speak with you today. I am a professor of law at the University of Pittsburgh. I specialize in non-profit organizations. From 2006 to 2011 I worked with the IRS chief counsel in D.C., overseeing the tax-exempt sector. Today this sector is my research focus.

Our overall legal structure for political activities of non-profits is imperfect, but not bad. It is justifiable. Indeed, at its best it is very good, a paragon of civil society. As I told the Senate Finance Committee just last year, where we fall down is enforcement. That failure lies in a failed IRS budget and a failure of the IRS to pursue clear violations. These failures do not favor one party, but favor those interests with the means and the will to abuse that structure. I focus on three fundamental points.

First, a diverse non-profit sector that fosters civic participation and engagement is a gem of the United States. Let's maintain that.

Second, the IRS budget for exempt organizations continues to not be sufficient to ensure the laws are equally and fairly enforced. The efforts to claw back the Inflation Reduction Act dollars for the IRS need to stop.

Third, there are simple things the IRS could do to enforce the law it is not doing.

Diverse non-profit sector. As you embark on this important endeavor working to limit abuses of the non-profit sector, ask the question how can I make sure that the cure we choose is not worse than the disease? As John Gardner said about the non-profit sector, it is the natural home of non-majoritarian impulses. It comfortably harbors innovators, maverick movements, groups which feel they must fight for their place in the sun, and critics of both liberal and conservative persuasion. These organizations make up what we—many refer to as civil society. Crafting rules for this sector takes great care. Voter registration, get-out-the-vote efforts, non-partisan information regarding elections all fit well within charity, and should be encouraged, not threatened.

The budget. Congress shrank the IRS budget over the past decade. CBO reports the IRS budget fell by 20 percent from 2010 to 2018: 94,000 employees in 2010, 73,500, 2019. Fewest employees IRS has had since 1970. By 2022 we are still at a historical low of about 79,000. Worse yet, the EO group at the IRS shrank from 889 employees to around 550 in 2019, and it did not begin to recover in 2022, when you look at the data. Audits in 2010, the IRS had about a 0.38 percent examination rate. By 2019 TIGTA counted that at 0.13 percent, negligible.

The tax-exempt sector grew. In 2010 charitable organizations alone reported \$2.9 trillion in assets; 2019, \$4.8 trillion in assets. The idea the IRS might be able to use its resources to ensure compliance is laughable. Efforts, as recommended by the GAO, to make better use of data is the only way we are going to get out of this mess.

Is the IRS using enforcement information and reporting in the EO sphere and political activities? Not really. IRS recently chose less information, even though it recognizes information reporting matters in stopping tax abuse. It ended the collection of substantial donor information a few years ago—documents occasions where a social welfare organization represents to the FEC that it made independent expenditures, but reports nothing to the IRS, nothing that would stop the IRS from using that data.

Thank you for inviting me to speak today. The tax laws are built fairly well to prohibit the deducting of campaign expenditures and promote a strong non-profit sector. But the current anemic IRS budget, the lack of IRS enforcement, and failure to collect substantial donor information creates a crisis. This undermines confidence in the tax system.

I urge Congress to maintain the Inflation Reduction Act dollars for the IRS budget. Please release the rider stopping rules from being enacted regarding (c)(4)s, and please protect the independence of the non-profit sector. It matters. Thank you.

[The statement of Mr. Hackney follows:]

**Written Testimony of Philip Hackney, Professor of Law
University of Pittsburgh School of Law
U.S. House Ways & Means Subcommittee on Oversight
Hearing on Growth of the Tax-Exempt Sector and the Impact on the
American Political Landscape.**

December 13, 2023

Chair Schweikert, Ranking Member Pascrell, Members of the Subcommittee, thank you for inviting me to speak with you about a matter of great importance to the operation of the democratic order of the United States. I understand you have asked me to speak to the issue of federal income tax laws related to the political activity of tax-exempt entities.

I am a professor of law at the University of Pittsburgh School of Law where I primarily teach tax law courses. I specialize in the federal tax treatment of nonprofit organizations. From 2006-2011, I worked in the Office of the Chief Counsel of the IRS in Washington D.C. overseeing the tax-exempt sector. There I helped to oversee the drafting of regulations, the overall program of auditing tax exempt organizations, and IRS litigation on matters related to tax laws applicable to nonprofits and government entities. That work necessarily interacted with politics. The IRS oversees dark money organizations, § 527 political organizations, and charities that engage in politics in its largest sense. Today, I write, research, and speak about these organizations and the regulatory regime applicable to them.¹

While I think the tax laws regarding tax-exempt organizations are wanting, our overall legal structure is justifiable. In fact, many aspects of our tax law related to nonprofit organizations that enhance our democracy find our tax-exempt sector at its best. Where we fall as a nation is in enforcement. As I will discuss below, we do not allocate enough resources to this arena, and we do not institutionally offer the support necessary to enforce these laws.

First, I describe tax-exempt law and then enforcement. As you will see in Part II, the IRS still does not have the budget to enforce the tax law, particularly in the tax-exempt sector.

I. Tax-Exempt Organizations and Politics

Tax-exempt organizations carry out incredibly important functions to a well-run democracy. In the Tax-Exempt Scholar Letter, we highlight a quote by John W. Gardner

¹ I note that in addition to my experience at the IRS this testimony is based on testimony I submitted to the Senate Finance Committee in May of 2022, and upon articles I have written including *Political Justice and Tax Policy: The Social Welfare Organizations Case*, 8 TEX. A&M L. REV. 271 (2021) [hereinafter *Political Justice*] and *Dark Money Darker? IRS Shatters Collection of Donor Data*, 25 FLA. TAX REV. 140 (2021) [hereinafter *Dark Money Darker*]. The testimony is based in part as well upon a letter I submitted with other tax-exempt organization scholars on September 1, 2023, in response to the Request for Information published by this Subcommittee (Tax-Exempt Scholar Letter). I attach my Senate Testimony and the Tax-Exempt Scholar Letter to this written Testimony.

that the nonprofit sector “is the natural home of nonmajoritarian impulses, movements, and values. It comfortably harbors innovators, maverick movements, groups which feel that they must fight for their place in the sun, and critics of both liberal and conservative persuasion.”² These organizations make up what many refer to as *civil society*.

As a preliminary matter, ‘political’ is a word that encompasses almost everything we do. One definition is how the group decides what to do. Thus, when I speak of political activity of nonprofits I am only referring to (1) intervention in a political campaign, (2) lobbying, and (3) activities close to both, sometimes referred to as issue advocacy. Each of these has a very specific meaning and has different impacts on different types of tax-exempt organization.

In tax-exempt law, the intervention in a political campaign (*political campaign intervention*) generally means the participation or intervention, “directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.”³ This includes campaigns for public office (federal, state, and local) and the encouraging of people to vote for or against candidates. *Lobbying* refers to efforts to encourage members of a legislative body to propose, support, or oppose legislation.⁴ Finally, *issue advocacy* is a looser concept. It typically involves an organization educating the public broadly about a political topic with the intention of swaying the public toward a particular political solution. In its most specific context, issue advocacy involves advocating a political solution while simultaneously identifying a candidate for office. But issue advocacy can also further an exempt purpose. As noted in the Tax-Exempt Scholar Letter, none of the tax laws require a tax-exempt entity to be non-partisan. No part of the Internal Revenue Code (Code) prohibits an organization from taking a position that happens to align with one party or the other.

a. Section 527 Political Organizations

Section 527 manages the taxable situation of political organizations organized and operated primarily for an “exempt function.”⁵ An exempt function includes the “function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization.”⁶ A § 527 organization that anticipates receiving gross receipts in excess of \$25,000 a year generally must give notice to the IRS within 24 hours of its establishment.⁷ Unlike a social welfare organization, a § 527 organization must *publicly* disclose substantial information about its receipts of contributions and expenditures.⁸ If

² John Gardner, Foundation Center, *The Independent Sector*, in AMERICA'S VOLUNTARY SPIRIT ix (1983).

³ Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii).

⁴ Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii).

⁵ Act of Jan. 3, 1975, Pub. L. No. 93-625, § 10, 88 Stat. 2108, 2116-19 (codified as amended at § 527).

⁶ 26 U.S.C. § 527. See also Rev. Rul. 2004-6, 2004-1 C.B. 328 (describing when § 501(c)(4), (5) & (6) organizations are engaged in exempt function activity).

⁷ They must file with the IRS a Form 8871 found here <https://www.irs.gov/forms-pubs/about-form-8871>.

⁸ 26 U.S.C. § 527(j). Note that Political Committees that already have the obligation to file with the FEC do not have to comply with the § 527(j) disclosure requirements. See also Form 990, Return for Organization Exempt from Income Tax, Schedule B Schedule of Contributors Instructions; Form 8872 <https://www.irs.gov/forms-pubs/about-form-8872>.

a social welfare organization, business league or labor union engages in activities categorized as exempt function activity, the organization is subject to the tax under § 527(f). Congress applies a tax upon the gain of a contributor upon contribution to a § 527 of appreciated property.⁹

b. Charitable Organizations

A charitable organization must be organized and operated exclusively for religious, charitable, scientific, or educational purposes, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.¹⁰ Such organizations may not engage in more than an insubstantial amount of lobbying and are prohibited from political campaign intervention.¹¹

There are numerous benefits the government provides to charitable organizations. For instance, they can accept tax-deductible charitable contributions from donors.¹² Contributions to charitable organizations are also deductible from the trust, gift, and estate taxes.¹³ A charitable organization generally owes no tax on its earnings unless it operates an unrelated trade or business.¹⁴ There are many more benefits.

The prohibition on campaign intervention means that the organization's representatives *when speaking for the charity* may not directly or indirectly encourage people to vote for or against a candidate for political office.¹⁵ As our Tax-Exempt Scholar Letter noted, the prohibition does not prohibit charities from aiding voter registration, providing voter education, or helping to get out the vote.¹⁶ While it is possible to run such operations in ways that do violate the law, such as for instance by turning away people from one party or the other, the fact that a charitable effort has a large percentage of one party or another is not and should not be the test.

Importantly, neither political campaign expenditures nor lobbying expenditures are deductible under the Code.¹⁷ If a charity were able to intervene in a political campaign, donors would have a means to deduct their political campaign activity.

⁹ 26 U.S.C. § 84.

¹⁰ 26 U.S.C. § 501(c)(3).

¹¹ *Id.*

¹² 26 U.S.C. § 170. See JOINT COMMITTEE ON TAXATION, PRESENT LAW AND BACKGROUND RELATING TO THE FEDERAL TAX TREATMENT OF CHARITABLE CONTRIBUTIONS, JCX-2-22, 34 (March 17, 2022).

<https://www.jct.gov/publications/2022/jcx-2-22/> (making this essential point: "the value of the tax deduction to the taxpayer is the amount of the donation multiplied by the taxpayer's marginal tax rate").

¹³ 26 U.S.C. §§ 642, 2055, and 2522.

¹⁴ 26 U.S.C. § 511.

¹⁵ See Rev. Rul. 2007-41, 2007-25 I.R.B. 1421.

¹⁶ Rev. Rul. 2007-41, I.R.B. 2007-25.

¹⁷ 26 U.S.C. § 162(e). The U.S. Supreme Court upheld the prohibition on deducting political campaign expenses in *Cammarano v. United States*, 358 U. S. 498 (1959).

Congress limits the amount of lobbying in which a charity can engage.¹⁸ “No substantial part” of the activities of a charity can consist in “carrying on propaganda, or otherwise attempting, to influence legislation.”¹⁹ Lobbying involves “contacting legislators or urging the public to contact them to propose, support, or oppose legislation, or advocating the adoption or rejection of legislation.”²⁰ It is not clear how much lobbying is too much.²¹

The U.S. Supreme Court upheld the constitutionality of the limitation on lobbying in *Regan v. Taxation with Representation*.²² The Court stated: “[w]e held that Congress is not required by the First Amendment to subsidize lobbying. In these cases, as in *Cammarano*, Congress has not infringed any First Amendment rights or regulated any First Amendment activity. Congress has simply chosen not to pay for TWR’s lobbying.”²³ The Court highlights that those who run a charity have the option of also operating a § 501(c)(4) social welfare organization in order to engage in substantial lobbying, simply without the ability for donors to deduct their contributions.²⁴ In a footnote, the Court notes that the IRS allows the same people who control the charity to also control the social welfare organization, as long as the organizations scrupulously account for the monies and ensure no monies intended for the charity are used to support the social welfare organization’s activity.²⁵

c. *Dark Money Organizations*

Dark money organizations refer to tax-exempt organizations that engage in political advocacy. The moniker “dark” means the organization neither publicly discloses contributions under campaign finance laws nor via tax information returns. Social welfare organizations and business leagues are the common tax-exempt organizations that fit this category. Though the IRS used to require dark money organizations to file information about substantial donors with the IRS, the IRS recently ended the requirement.²⁶

What is the benefit of being a § 501(c)(4) or (6) organization? Though they generally cannot accept tax-deductible contributions, just like a charity, money earned in one of these exempt organizations is exempt from the income tax.²⁷ Some payments

¹⁸ 26 U.S.C. § 501(c)(3).

¹⁹ *Id.*

²⁰ Treas. Reg. § 1.501(c)(3)-1(c)(3).

²¹ *Haswell v. United States*, 500 F.2d 1133 (Ct. Cl. 1974), *cert. denied*, 419 U.S. 1107 (1975) (finding a range between 16.6% and 20.5% of total expenditures over four years to be a substantial part).

²² *Regan v. Taxation with Representation*, 461 U.S. 540 (1983) (*citing* *Cammarano v. United States*, 358 U.S. 498, 513 (1959)).

²³ *Id.* at 546.

²⁴ *Id.* at 544.

²⁵ *Id.* at 544 FN 6.

²⁶ 85 Fed. Reg. 31959 (May 28, 2020) (codified at 26 CFR 56) T.D. 9898. *See also* *Dark Money Darker*, *supra* note 1 (arguing that the ending of this collection was a bad decision and should be reconsidered by the IRS, Treasury and Congress).

²⁷ 26 U.S.C. §§ 501(a), (c)(4), & (6). An exempt organization that operates an unrelated business is subject to the unrelated business income tax though under 26 U.S.C. § 511.

to these organizations are deductible as business expenses.²⁸ Unlike contributions to a § 527, a donor can contribute appreciated property like stock and not trigger gain for tax purposes.²⁹ This makes the dark money organization a more desirable destination for appreciated assets than political organizations. Finally, the gift tax does not apply to contributions to either a social welfare organization or a business league.³⁰

i. *Social welfare organizations*

Social welfare organizations include “[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . . and no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.”³¹ The regulations suggest a social welfare purpose is furthered through “bringing about civic betterments and social improvements.”³² One court suggested that such a purpose is found in “a community movement designed to accomplish community ends.”³³

According to the U.S. Supreme Court, in interpreting “exclusively[,] . . . [t]his plainly means that the presence of a single non-[exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes.”³⁴ In *Contracting Plumbers*, the Second Circuit court stated regarding § 501(c)(4) that “we adhere to the rule that the presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purposes.”³⁵ There is a lack of clarity here on this issue. Though a single substantial non-exempt purpose could be reached by expenditures amounting to well under 50% of expenditures, some attorneys take the position that engaging in fifty plus one percent of expenditures furthering social welfare annually satisfies the Code.³⁶ Regulations in this area could provide significant help to those trying to comply with the law.

Lobbying can further a social welfare purpose.³⁷ However, political campaign intervention does not further a social welfare organization purpose.³⁸ In 2013, the IRS issued proposed regulations with the intent to make it clearer when such lines are crossed for § 501(c)(4) organizations.³⁹ But, in Consolidated Appropriations Acts since 2016 Congress has blocked the IRS from implementing rules to clarify this space. The

²⁸ 26 U.S.C. § 162.

²⁹ *Cf.* 26 U.S.C. § 84 (donor who contributes appreciated property to 26 U.S.C. § 527 political organization owes income tax on the gain associated with the appreciated property).

³⁰ 26 U.S.C. § 2501(a)(6).

³¹ 26 U.S.C. § 501(c)(4).

³² Treas. Reg. § 1.501(c)(4)-1(a)(2).

³³ *Erie Endowment v. United States*, 316 F.2d 151, 156 (3d Cir. 1963).

³⁴ *Better Business Bureau of Washington D.C. v. U.S.*, 326 U.S. 279, 283 (1945).

³⁵ *Contracting Plumbers Co-op. Restoration Corp. v. United States*, 488 F.2d 684, 686 (2d Cir. 1973).

³⁶ See Ellen P. Aprill, *Examining the Landscape of Section 501(c)(4) Social Welfare Organizations*, 21 N.Y.U. J. LEGIS. & PUB. POL'Y 345, 346-47 (2018) (noting that some practitioners take this position).

³⁷ Rev. Rul. 68-656, 1968-2 C.B. 216.

³⁸ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

³⁹ Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, (REG-134417-13) 78 FR 71535-01, 2013-52 I.R.B. 856, (November 29, 2013).

Consolidated Appropriations Act of 2022 fixes the status of the law regarding these organizations with the “standard and definitions as in effect on January 1, 2010, which are used to make such determinations . . . for purposes of determining status under § 501(c)(4) of such Code of organizations created on, before, or after” the Act.⁴⁰

ii. *Business leagues*

Business leagues include “[b]usiness leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues.”⁴¹ A business league must promote a common business interest and direct its activities towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.⁴² These organizations broadly support various industries or professions through education, advertising, networking, lobbying.⁴³ Similarly to social welfare organizations, a business league is prohibited from allowing its earnings to inure to a private shareholder or individual. Though the term is not expressly used in the Treasury Regulations or the Code, it is understood that a business league must primarily operate for its exempt purpose.⁴⁴

As with social welfare organizations, lobbying is a permissible purpose of a business league.⁴⁵ Political campaign intervention does not further a business league purpose.⁴⁶ Thus, business leagues can do unlimited lobbying, assuming it furthers the organization’s purpose, and can under tax law intervene in a political campaign if that is not the business league’s primary purpose.⁴⁷

d. Information Reporting Requirements

To be recognized as exempt from tax as a charitable organization most entities must file a Form 1023.⁴⁸ The IRS recently adopted a Form 1023EZ too. This allows any organization that expects to normally earn revenue of \$50,000 or less per year to file a very simple online form with very little information about the organization.⁴⁹ The IRS adopted this form to manage the large backlog of applications that it historically was unable to keep up with based on the staff it had available. The adoption of the form has

⁴⁰ H.R. 2471, Div E, Title I, sec. 123 (2022)

<https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR2471SA-RCP-117-35.pdf>.

⁴¹ 26 U.S.C. 501(c)(6).

⁴² Treas. Reg. § 1.501(c)(6)-1.

⁴³ For a detailed discussion of the activities and types of business leagues, see Philip Hackney, *Taxing the Unheavenly Chorus: Why Section 501(c)(6) Trade Associations are Undeserving of Tax Exemption*, 92 DEN. U. L. REV. 265 (2015).

⁴⁴ See, e.g., *American Auto Ass’n v. Comm’r*, 19 T.C. 1146, 1159 (1953) (“petitioner was *primarily* a service organization. Its Principal activities, as disclosed by our findings of fact, consisted of performing particular services, and securing benefits of a commercial nature for its members”) (emphasis added).

⁴⁵ Rev. Rul. 61-177, 1961-2 C.B. 117.

⁴⁶ See I.R.S. Gen. Couns. Mem. 34,233 (Dec. 3, 1969).

⁴⁷ Inspector Gen. for Tax Admin., *Review of the Processing of Referrals Alleging Impermissible Political Activity by Tax-Exempt Organizations*, Ref. Num. 2019-10-006, 3 (Oct. 4, 2018).

⁴⁸ 26 U.S.C. § 508; I.R.S. Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (2017) <https://www.irs.gov/pub/irs-pdf/f1023.pdf>.

⁴⁹ I.R.S., Instructions for Form 1023EZ (01/2023) <https://www.irs.gov/instructions/i1023ez>.

subjected the IRS to intense critique, including from the Taxpayer Advocate, because of a significant concern that the system is subject to much fraud.⁵⁰ Non-charitable organizations mostly file a Form 1024 if they want to be recognized as exempt from tax.⁵¹ After legislation in 2015, any organization that intends to operate as a social welfare organization must provide notice to the IRS of its intention within 60 days of its formation.⁵² The organization files a Form 8976 to meet this notice requirement.

Most organizations exempt from income tax under § 501(a) of the Code must file an annual information return “stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws.”⁵³ The Form 990, the annual information return of tax-exempt organizations, both serves a means of ensuring the organization complies with its tax status and provides the public information to hold these organizations publicly accountable.⁵⁴

The Form 990 is generally available to the public.⁵⁵ The public disclosure of the returns arguably brings “some measure of organizational accountability to various constituencies, including current and prospective donors, organization employees and patrons, other exempt entities, and the citizenry at large.”⁵⁶ The Joint Committee on Taxation has suggested “[d]isclosure of information regarding tax-exempt organizations also allows the public to determine whether the organizations should be supported - either through continued tax benefits and contributions of donors - and whether changes in the laws regarding such organizations are needed.”⁵⁷ The Independent Sector suggests the unique role of nonprofits in our society as *voluntary organizations* requires more public disclosure.⁵⁸

Until recently, most exempt organizations were required to disclose to the IRS, but not the public, the substantial donors to the organization during the taxable year.⁵⁹ Though the Treasury Department and IRS long required exempt organizations to disclose substantial donor names and addresses to the IRS alone, not publicly, in 2020, the Treasury Department and the IRS finalized regulations ending that requirement for

⁵⁰ TAXPAYER ADVOC. SERV., FISCAL YEAR 2017 OBJECTIVES REPORT TO CONGRESS 181 (2017).

⁵¹ I.R.S., Form 1024, Application for Recognition of Exemption Under Section 501(a) or Section 521 of the Internal Revenue Code, <https://www.irs.gov/forms-pubs/about-form-1024>.

⁵² 26 U.S.C. § 506.

⁵³ 26 U.S.C. § 6033.

⁵⁴ I.R.S., FORM 990, RETURN OF EXEMPT ORGANIZATION EXEMPT FROM INCOME TAX <https://www.irs.gov/pub/irs-pdf/f990.pdf>.

⁵⁵ 26 U.S.C. § 6104(b).

⁵⁶ Caroline K. Craig, *The Internet Brings 'Cyber-Accountability' to the Nonprofit Sector*, 13 J. TAX'N EX. ORG. 82 (2001).

⁵⁷ Staff of the Joint Comm. on Taxation, 106th Cong., STUDY OF DISCLOSURE PROVISIONS RELATING TO TAX-EXEMPT ORGANIZATIONS, at 5 (2000); see also Lloyd Hitoshi Mayer, *The Promises and Perils of Using Big Data to Regulate Nonprofits*, 94 WASH. L. REV. 1281, 1297-98 (2019).

⁵⁸ Evelyn Brody, *Sunshine and Shadows on Charity Governance: Public Disclosure as a Regulatory Tool*, 12 FLA. TAX REV. 183, 212 (2012).

⁵⁹ I.R.S., FORM 990, RETURN OF ORGANIZATION EXEMPT FROM TAX, <https://www.irs.gov/pub/irs-pdf/f990.pdf>.

all but charitable organizations.⁶⁰ This was a mistake as to dark money organizations at least. The IRS needs the information regarding substantial donors from not just charitable organizations, but also the dark money organizations to protect the revenue and as a means to deter tax avoidance.⁶¹ The ending of the collection of that information also likely impacts the integrity of the campaign finance system. Knowledge of donors to nonprofits is relevant to the enforcement of that law. For instance, the system prohibits foreign actors from contributing to campaigns for public office or making expenditures for political campaigns.⁶²

Requiring disclosure to the IRS acts as a deterrent to tax avoidance as well.⁶³ The Treasury Department notes that tax noncompliance is highest where there is no third-party reporting.⁶⁴ The Treasury Department highlights the need to “strengthen reporting requirements,”⁶⁵ and notes that enforcement activity itself is not a driver of reducing the tax gap.⁶⁶ In its 2001 study, the IRS found that about 45% of compliance has to do with information reporting.⁶⁷ Given the significant lack of enforcement of the tax laws from the IRS as discussed below in Part II, ending this requirement to disclose substantial donors becomes even more damaging. After the Supreme Court found California’s requirement that nonprofits provide their Schedule B with donor names and addresses to be unconstitutional under the First Amendment,⁶⁸ the Buckeye Institute has a challenge to this same collection of donor information for charitable organizations.⁶⁹

II. IRS Enforcement

What resources does the IRS have to ensure compliance with the law? The trend over the past ten years was not good. Congress did not provide the agency the resources, human or capital, needed to enforce the tax law.⁷⁰ That might have changed in part from the Inflation Reduction Act passed in 2022 (IRA), which dedicated \$80 billion to the IRS over ten years.⁷¹ However, that amount has been cut to \$58 million, and there are

⁶⁰ Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 85 Fed. Reg. 31959 (May 28, 2020) (codified at 26 CFR 56) T.D. 9898.

⁶¹ See *Dark Money Darker*, *supra* note 1.

⁶² 52 U.S.C. §30121; 11 C.F.R. § 110.20. See Norman I. Silber, *Foreign Corruption of the Political Process through Social Welfare Organizations*, 114 NW. U. L. REV. ONLINE 104 (2019).

⁶³ *Id.* at 170-75.

⁶⁴ See OFFICE OF TAX POLICY, U.S. DEP’T OF TREASURY, A COMPREHENSIVE STRATEGY FOR REDUCING THE TAX GAP 8 (2006), available at https://www.irs.gov/pub/irs-news/comprehensive_strategy.pdf.

⁶⁵ *Id.* at 9.

⁶⁶ *Id.* at 13.

⁶⁷ See I.R.S., Tax Year 2001 Tax Gap Update 2 (2007); see also Leandra Lederman, *Essay: Reducing Information Gaps to Reduce the Tax Gap: When is Information Reporting Warranted?*, 78 FORDHAM L. REV. 1733, 1738 (2010).

⁶⁸ *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021).

⁶⁹ *Buckeye Institute v. I.R.S. No. 2:22-cv-04297-MHW-EPD*, U.S. Dist. Ct. for the Southern Dist. of OH (2023).

⁷⁰ See, e.g., Paul Keil & Jesse Eisinger, *How the IRS was Guttled*, PROPUBLICA (Dec. 11, 2018).

⁷¹ See Cong. Res. Serv., *IRS-Related Funding in the Inflation Reduction Act* (Oct. 20, 2022) <https://crsreports.congress.gov/product/pdf/IN/IN11977>.

many efforts in Congress to cut that allocation even more.⁷² Prior to the IRA, though the economy grew, Congress shrank the IRS budget over a decade. According to the Congressional Budget Office (“CBO”) the IRS budget fell by 20% in real (inflation adjusted) dollars between 2010 and 2018.⁷³ This resulted in a 22% decrease in employees.⁷⁴ IRS Data Books show the IRS went from over 94,000 full time equivalent (“FTEs”) employees in FY 2010 to 73,554 FTEs in FY 2019.⁷⁵ With the recently enacted IRA, those numbers are going back up; though still quite low by historical standards, in FY 2022 the IRS had 79,070 FTEs.⁷⁶ Furthermore, over the years, some of the most specialized employees in the enforcement sphere saw declines of 35% for revenue agents and 48% for revenue officers.⁷⁷ The Government Accountability Office (“GAO”) in 2014 recognized that the budget cuts at the IRS led to less enforcement in the tax-exempt sector.⁷⁸ The IRS workforce on exempt organization matters shrank about 5% from 2010 (889 FTEs) to 2013 (842 FTEs).⁷⁹ That workforce then shrank significantly to around 550 FTEs by FY 2019⁸⁰ and seems to have shrunk even more through the end of 2022.⁸¹

The main functions of the exempt organizations group are running an application system called the determinations process, and an examination program. In determinations, as annual applications have increased annual rejections from the IRS have significantly decreased.⁸² In FY 2022, the IRS reviewed over 136,000 applications for exempt status, it rejected only 86 of those applications.⁸³ Comparatively, in FY 2010, the IRS reviewed over 65,000 of such applications and rejected 517.⁸⁴ When looking at examinations, it is impossible to have a perfect figure given the way the data is reported in the IRS Data Book, but of all the returns filed and all the returns examined in 2010, which likely includes some double counting of organizations (and includes sizable employment tax returns), the IRS had about a .38% examination rate.⁸⁵ TIGTA counted the rate in 2019 at 0.13%.⁸⁶ That rate has not begun to recover.

The IRS workforce and enforcement shrunk while the tax-exempt sector grew. It is difficult to get good statistics on nonprofits. There are many problems with the data

⁷² Doug Sword & Candy Stanton, *IRS Pot of Money Doubly Targeted by GOP*, TAX NOTES (Nov. 2, 2023).

⁷³ CONGRESSIONAL BUDGET OFFICE, TRENDS IN THE INTERNAL REVENUE SERVICE’S FUNDING AND ENFORCEMENT, 1 (2020).

⁷⁴ *Id.*

⁷⁵ I.R.S., DATA BOOK, 74 Table 31 (2019); I.R.S., DATA BOOK, 66 Table 29 (2010).

⁷⁶ I.R.S., DATA BOOK, 72 Table 31 (2022).

⁷⁷ *Id.*

⁷⁸ GAO, BETTER COMPLIANCE INDICATORS AND DATA, AND MORE COLLABORATION WITH STATE REGULATORS WOULD STRENGTHEN OVERSIGHT OF CHARITABLE ORGANIZATIONS, 19 (2014).

⁷⁹ *Id.*

⁸⁰ IRS, TEGE, FISCAL YEAR 2019 ACCOMPLISHMENTS, Pub. 5329 (2020).

⁸¹ IRS, TEGE, FISCAL YEAR 2022 ACCOMPLISHMENTS, Pub. 5329, 2 (2022) (chart reflects less than 550 FTEs in Exempt Organizations).

⁸² Philip Hackney, *The Real IRS Scandal has more to do with Budget Cuts than Bias*, THE CONVERSATION (April 15, 2018).

⁸³ IRS, DATA BOOK, 28, Table 12 (2022).

⁸⁴ IRS, DATA BOOK, 56, Table 24 (2010).

⁸⁵ IRS, DATA BOOK, 4, Table 2, 33, Table 13 (2010).

⁸⁶ Inspector Gen. for Tax Admin., *Obstacles Exist in Detecting Noncompliance of Tax-Exempt Organizations*, Ref. No. 2921-10-013, 6 (2021).

from the IRS including the fact that not all organizations file returns⁸⁷ or do not file returns that provide any significant data,⁸⁸ and not all organizations file returns accurately. Nevertheless, a look at IRS data from Forms 990 suggests assets and revenue have increased over the decade.⁸⁹ In 2010, with a little over 186,000 charitable organization Form 990s filed, the charitable sector held over \$2.9 trillion in assets and almost \$1.6 trillion in revenue.⁹⁰ In comparison, in 2017 over 217,000 charitable organizations filed Form 990s reporting over \$4.3 trillion in assets and almost \$2.3 trillion in revenue.⁹¹ In 2019, they reported \$4.8 trillion in assets and \$2.4 trillion in revenue.⁹² Using that same data, again from reporting on Forms 990, for exempt organizations including 501(c)(4)-(9) in 2010 there were approximately \$547 billion in assets and \$360 billion in revenue.⁹³ In 2017, those amounts grew to approximately \$767 billion in assets and \$387 billion in revenue.⁹⁴

Efforts, such as those recommended by GAO, for the IRS to make better use of data available is the only way the IRS in this current environment can make headway against tax abuse. Robust information reporting thus needs to be the norm.

III. Conclusion

Thank you for inviting me to speak about the laws and enforcement governing the political activities of tax-exempt organizations. The tax laws are built well to prohibit the deduction of campaign expenditures and to promote a strong nonprofit sector. But still there are problems with that architecture. For instance, Congress could consider requiring donors to recognize gain on the contribution of appreciated assets to a dark money organization. Additionally, Congress should permit the Treasury Department and the IRS to issue regulations about boundaries of political campaign activity for social welfare organizations. That said, the many years of a reduced IRS budget, the lack of enforcement action by the IRS, and the failure to collect substantial donor information from dark money organizations is problematic. There is good reason to believe that taxpayers are able to take advantage, and indeed are taking advantage, of this system to intervene in politics in ways that violate the tax law. These factors undermine confidence in the tax system, the equal enforcement of the law, and our ability to operate a fair democratic system. Therefore, I urge Congress to maintain the IRA funding in its current state and to generally increase the IRS budget to a level that allows the IRS the ability to properly enforce the tax laws. But institutionally, I believe the IRS needs to be pushed and given support to enforce these laws that help work toward a fairer democratic order.

⁸⁷ After Congress added 26 U.S.C. § 6033(h) to the Code in 2006, and the IRS implemented what it calls the Form 990-N (e-Postcard), churches are likely far and away the largest group of charities that file no IRS return.

⁸⁸ Form 990-N provides little in the way of information regarding the organization.

⁸⁹ IRS, SOI Tax Stats—Charities & Other Tax-Exempt Organization Tax Statistics, Form 990—Balance Sheet and Income Statement Items.

⁹⁰ *Id.* 2010.

⁹¹ *Id.* 2017.

⁹² *Id.* 2019.

⁹³ *Id.*

⁹⁴ *Id.*

Chairman SCHWEIKERT. Thank you, Professor.

In consideration of Mr. Pascrell having an appointment shortly, I am going to ask Mr. Pascrell to go first, and then Chairman Smith.

Mr. Pascrell.

Mr. PASCARELL. Mr. Chairman, I appreciate that.

Professor Hackney, welcome aboard.

Mr. HACKNEY. Thank you.

Mr. PASCARELL. Great witnesses.

Thanks to the Inflation Reduction Act, the IRS finally has some resources to go after political malfeasance. You described it well. In fact, on page one you talked about some things that haven't been discussed in the way they have been discussed, and that is the question of testimony in tax-exempt organization and politics. Very interesting.

Can you expand on how the IRS could better regulate political involvement by 501(c)(4) organizations, if allowed to do so?

How damaging has the appropriations rider blocking such regulations been to the proper oversight of the tax-exempt sector?

Mr. HACKNEY. Thank you, Ranking Member Pascrell. So it has been quite damaging, right? The IRS tried to enact rules to clarify this world. The IRS Tea Party crisis that we talked about earlier, involving Lois Lerner, was created largely by the fact that the rules were unclear, and the IRS didn't know what to do, and they looked like a gang that couldn't shoot straight. As you noted, there was no targeting found, no reports found that. And the IRS has made good on an effort to try and clear up this problem in the future by clarifying how much it is that you can spend.

With a (c)(4), it is unclear what it is that you can use. The statute itself says exclusively you must use these dollars for social welfare, and it has been determined that engaging in political activities is not furthering a social welfare purpose. If the IRS could enact rules regarding this, we could clarify what kind of level of expenditures push you into that area.

Mr. PASCARELL. Last year I wrote to the IRS. I write to them frequently; it is a lovely day in the neighborhood with the IRS, for the deep concern I have with the approval of fraudulent charities that applied for tax-exempt status. The form is 1023EZ. As you testified, this condensed form simply does not require enough information from applicants to establish legitimacy in many cases.

How can the IRS improve its oversight of the application process for the organizations to receive tax-exempt status?

Mr. HACKNEY. Ranking Member Pascrell, it is a challenging situation, given the employees that we have. I think we have to come back to data and use cross-checks of these organizations against other individuals and other tax forms, so I think it is using much more sophisticated use of data.

Whether the Form 1023 can continue to exist, it is a hard question. The IRS used it to get out of the backlog that it is experiencing. It just couldn't keep up with the flow of the applications that are coming in. But I think there is the ability to use more data to cross-check against things. This is similar to the situation where we have CREW pointing out that independent expenditures are being reported to the FEC, but the IRS is doing nothing about it

and allowing these organizations. I think there is a lot of spaces there where there can be more cross-checking of data, and I think that could make it a significant improvement.

Mr. PASCRELL. As you know, in 2020 the Trump Administration issued a ruling ending the longstanding requirement for tax-exempt organizations to disclose substantial donor names and addresses to the IRS. Can you expand on the damage this has done to our campaign finance system, especially as it relates to preventing foreign actors to get involved in our own elections?

Mr. HACKNEY. Absolutely. So (c)(4)s are able to do some political campaign intervention, and they are not necessarily reporting to the FEC about these activities. But the IRS used to collect donor names and addresses on these forms. This information is critical for the IRS to enforce other aspects of the tax law, including a prohibition on inurement to (c)(4)s and to other tax excise taxes that apply to misuse of these funds. It has made the IRS blind. I called my article, when I wrote on this, "Dark Money Darker" for this very reason. It has made this money impossible to see, impossible to find, even the foreign stuff that we were talking about, as Chairman Schweikert had pointed out.

Mr. PASCRELL. Thank you, Mr. Hackney, and thank you to all the witnesses who are excellent. I agree with a lot of what you are saying, and I think we can come to some general agreement here with the troops.

What do you think?

Chairman SCHWEIKERT. I am pathologically optimistic. [Laughter.]

Chairman SCHWEIKERT. I am 61 years old with a 17-month-old. And with that, thank you, Mr. Pascrell.

Mr. Chairman.

Chairman SMITH. Thank you, Mr. Chairman. I want to thank each and every one of you for taking time out of your schedule to be here.

Mr. Walter, there are very serious concerns with how 501(c) tax-exempt organizations may be used not only to influence American politics and our elections, but to do so with foreign sources of funding. The organizations under Arabella Network, for example, with which you are familiar, have reportedly received millions of dollars from foreign nationals while spending large sums of money on various political activities. Can you explain how this money moves from foreign hands to non-profits here in the U.S., and then into the political arena?

Mr. WALTER. Certainly. In the case that I especially was focused on, that of Hansjorg Wyss, Mr. Wyss has a (c)(3) private foundation with billions of dollars in assets. He also has a (c)(4), the Berger Action Fund. That is pretty uncommon. George Soros has that kind of arrangement, not many others do. And his (c)(3) and his (c)(4) have donated to (c)(3)s and (c)(4)s that are run by Arabella Advisors. And of course, those (c)(4)s, in turn, are some of the biggest contributors to super PACs and general partisan causes.

Chairman SMITH. Given that our election laws prohibit foreign nationals from donating directly to the campaigns of candidates for Federal office, do you think we should reconsider how we look at

foreign donations to tax-exempt organizations that get involved in politics?

And do you have a specific policy change that you would recommend?

Mr. WALTER. Well, as I said in my testimony, (c)(4)s are, you know, obviously now, a critical part of the way American politics operates. And people on both sides of the aisle today have raised concerns about them. So it seems eminently reasonable to accept the fact that they are engaged in our politics and, therefore, should those (c)(4)s be able to accept foreign dollars and then pass on money to super PACs when no one is quite sure whether it was the foreign money or not.

So it seems reasonable, and has been introduced in the House already, to have limits on (c)(4)s' ability to give to super PACs if they are going to take foreign money. You could simply forbid the (c)(4)s from receiving foreign money or you could make it, the (c)(4), wait years before it donates to a super PAC.

Chairman SMITH. During this committee's investigation into 501(c) tax-exempt organizations, we came upon a quote from Mind the Gap, a Democrat super PAC that stated in a 2020 memo to donors, in part, "The single most effective tactic for ensuring Democrat victory is 501(c)(3) voter registration." Mr. Walter, do you know if this group continues to hold this view and communicate this to their donors?

Mr. WALTER. I do, thanks to reporter Teddy Schleifer at Puck News. I can tell you that they have a 2024 cycle memo, and let me just quote a sentence: "Our strategy early in the 2024 presidential race will be to massively scale high-performing voter registration and mobilization programs." The only grantee they recommend is the Voter Registration Project, a (c)(3).

Chairman SMITH. Mr. Whitson, a prime example of how 501(c)(3) tax-exempt organizations have found their way into our political system is through the sponsorship of activities related to the actual Administration of our elections in a clearly partisan manner, the 300-million-plus in so-called Zuckerbucks donated by Mark Zuckerberg being a recent example of how private funds may have influenced the electoral process as they found their way into the actual administration of elections by state and local governments.

What impact do you see this sort of very large, private, targeted sponsorship of electoral activity having on the outcome of elections and on the American people's faith in a fair and transparent system?

Mr. WHITSON. Thank you for that question, Mr. Chairman. So it is kind of twofold. I think, number one, it is about inspiring voter confidence and, number two, it is about what the outcome is going to be.

And so for FGA we are not trying to litigate the 2020 election, but we are trying to learn from it. And so to answer your question, if we want to look at what damage we think this could do in 2024, we do have to look to 2020 and see what damage it did then. And so again, as I alluded to, thanks to the great work of our team, as far as their analysis and research, we can see what some of the ef-

fect has been across the country. And I will give you one example: Georgia.

So in Georgia, the population of Georgia only accounts for about 3.2 percent of the population in the U.S. But Georgia received nine percent of Zuckerbucks. Of the Zuckerbucks money that went in, this is interesting, there are 6 counties that received grants of over \$1 million, all 6 of those counties were won by Hillary Clinton in 2016 and won by Joe Biden in 2024. Nine out of the ten highest-recipient counties in the State of Georgia were won by both Clinton and Biden.

So again, what we see from the past, what happened in 2020, is money funneled disproportionately into Democrat strongholds based on outcomes from 2016, and that the money funneled into the jurisdictions, the outcome was that Joe Biden won at an incredibly high rate. So it seems the money followed Democrats, and it seemed to have benefitted Democrats, based on our research.

Chairman SMITH. Thank you.

I yield back, Mr. Chairman.

Chairman SCHWEIKERT. Thank you, Mr. Chairman. Let me yield myself a few minutes here, just to understand some things.

Mr. Chung, more because you have some of the technical background, we have had a running discussion on some previous hearings that the, is it a 990 form, where tax-exempts, whether it be from a hospital to these, does that form need to be redesigned for what the mission for both research purposes, but also for us doing tax policy?

Mr. CHUNG. Yes, thank you for your question. As you know, CRS is a non-partisan organization, so I can't say whether the form should be designed or redesigned or not. I can describe what information is presented to the IRS from exempt organizations on those forms.

The Form 990 generally has information about revenue, assets, and expenses of the organization, and then the schedules to the schedules to the 990 contain more specific information. And organizations may have to fill out those various schedules, depending on different circumstances.

So as I mentioned in my testimony, the Schedule B contains information about substantial donors, which is generally understood to be \$5,000 or more a year.

Chairman SCHWEIKERT. Okay. The professor said something which was far beyond even things I have read, that there could be as much as four trillion in assets held by these. Is that something that CRS would actually be able to document, or is that a number you have seen?

Mr. CHUNG. Yes, the IRS does report aggregate data from the Form 990, and so that is information that is able to be found out. And I was able to look up some specific numbers during my preparation for this hearing.

So, for example, the IRS reported that in 1990 to 2022, the number of 501(c)(3) organizations grew from 546,000 to about 1.48 million. And then there was, in lockstep with that increase, an increase in the number of assets that they hold. So from tax year 1990 to tax year 2020, total assets held by (c)(3)s grew from \$696 billion to 5.5 trillion.

Chairman SCHWEIKERT. Five point five trillion? Okay. At some point that is actually going to be another area of research.

Mr. Walter, the same sort of question on would a change in the 990 forms make at least understanding what is really going on out there in the world easier for the researchers?

And that same question for everyone.

Mr. WALTER. Yes, Mr. Chairman. There—I would be happy to submit for the record reports that we have made suggesting a variety of changes on the 990 and 990PF.

The most single obvious thing would be in the case of Arabella Advisors. They have literally hundreds of fiscally sponsored groups, and nothing in the 990 requires them to say anything about those particular groups, which lets those groups hide in greater darkness than a regular non-profit like mine.

Chairman SCHWEIKERT. Okay.

Mr. WHITSON. So this is an area a little bit outside of FGA's wheelhouse. And so I think our biggest thing is, you know, those who don't learn from history are doomed to repeat it, and so we keep coming. I applaud the efforts to come up with solutions, but our position is always to look at this, look back to 2013 and the Lois Lerner example, but then also look back even further to 1958, to the NAACP v Alabama case, and just see in the past when—

Chairman SCHWEIKERT. That is donor disclosure.

Mr. WHITSON. Yes. And so any time we are in—yes, Mr. Chairman.

Chairman SCHWEIKERT. Okay. Professor, 990, for those of us who want to just do sort of aggregate research, do we need to update the forms?

Mr. HACKNEY. Yes, and I will explain why. When I was there 2006 to 2011, the office did a major redo of it, and it improved it in some ways. But the thing that I think is still missing is a uniformity of concept.

So you can have organizations that are taking certain terms, like community benefit that a hospital does, and have all sorts of different concepts about what that concept means. So I think the most critical thing is to have a uniform concept of what individuals are reporting. So more definitional aspects.

I think there could be improvement in the way that information is presented. I haven't given enough thought about it, but the uniformity of what it means when you use certain terms, that would be an enormous help so that you have data that you can compare. Right now you can't compare that. It is apples to oranges.

One other thing. Churches don't report, which has its benefits and its detractions. I have written about this. But that creates a hole there, as well, so you miss some data.

But uniformity of terms would help a lot.

Chairman SCHWEIKERT. Okay. Look, I don't mean to ramble on this, but there was a story, I think it is ProPublica, about a year-and-a-half, two years ago. And the focus of the article was actually the use of 501(c)(3)s and others, and almost creating sort of a generational skipping trust, and the movement of money, and the ways to use pre-tax monies. And only two-thirds through the article then you got an, "Oh, and by the way, some of this is also going

into politics.” And that is actually what generated part of this discussion here.

So it is both, pre-tax money isn’t supposed to go into politics. And if I need to fixate on that, I will. But also the use of some of these pre-tax-type of entities as a way to avoid certain taxes, also something we also need to understand. That is a little beyond the scope of this, but that is where the 990 question comes in, there may be a much broader breadth here. And with that I am going to reach over to Ms. Chu.

It is yours.

Ms. CHU. Thank you, Mr. Chair. Before I begin, I ask unanimous consent to enter into the record written testimony from Citizens for Responsibility and Ethics in Washington, or CREW, and it says that Congress should take action to shine light on dark money by empowering the IRS to both enforce and clarify the rules governing political activity by tax-exempting organizations.

Well, Professor Hackney, I am working with Senator Sheldon Whitehouse, chair of the Senate Budget Committee, on legislation to close a harmful loophole in the tax code that I was so pleased you mentioned in your testimony. Wealthy individuals who hold appreciated property like stock in a company can actually donate that property to a 501(c)(4) organization which is not subject to the gift tax, and completely avoid paying capital gains taxes on that donation.

This loophole effectively gives a public subsidy to the wealthy who seek to influence politics and elections through dark money organizations. As I mentioned at a hearing last week, billionaire Barre Seid donated \$1.6 billion in stock earlier this year to a right-wing non-profit organization that engages in political activity, avoiding a tax bill of up to \$400 million.

So, Professor Hackney, can you briefly describe the difference in the tax treatment of a donation of appreciated property like company stock to a 527 political organization versus the same donation to a 501(c)(4)?

Mr. HACKNEY. Thank you, Member Chu, great question. And I think this is an issue that goes to the heart of Chair Schweikert’s interest in making sure we are neutral to this.

If you donate to a 527 or contribute to a 527, this is a political organization carrying out election activities. Section 84 of the code applies a tax on the gain to the contributor, so they will pay tax on the difference between what they bought the thing at, say they bought it at \$10 and it is now \$100, they are going to pay tax on that gain, that \$90 gain. You do the same thing to a (c)(4), there is no tax, no gift tax either. So there is a real nice way, if you are wealthy, to get tax advantage contributions and accomplish political purposes, at least about 49 percent, potentially, under many people’s conceptions.

Ms. CHU. And many 501(c)(4) organizations do, in fact, engage in political activity, as long as that is not their primary purpose. Correct?

Mr. HACKNEY. That is correct.

Ms. CHU. So, in effect, a billionaire can receive a massive tax break for donating appreciated stock to a 501(c)(4) that seeks to in-

fluence our politics and elections, while also avoiding the public disclosure rules that apply to 527 organizations like PACs. Correct?

Mr. HACKNEY. That is absolutely correct.

Ms. CHU. So, can you expand on why you suggest Congress should consider closing this loophole and treating donations of appreciated property to 501(c)(4)s in the same way as donations to 527s for purposes of capital gains tax, and what impact that would have in helping the IRS adequately enforce our tax laws with respect to tax-exempt organizations and political activities?

Mr. HACKNEY. I think the fundamental aspect is that I think Congress has made a choice, and I think we as a nation have made a choice that the government should be neutral as to politics. Section 84 would stop this from happening at the (c)(4) level. Our (c)(4)s are absolutely engaging in politics. This would put a tax.

And one of the things that is particularly problematic about it is the wealthier you are, the more benefit you get from these rules. Putting Section 84 there would make the fisc neutral to these matters, as Chair Schweikert is looking to accomplish. I think Section 84 is a really good start to an answer to Chair Schweikert's questions.

Ms. CHU. And you have talked quite eloquently about the need for IRS enforcement. I found a statistic. In 2010 the IRS reviewed more than 65,000 applications and rejected 517. But in 2022 the number of applications grew exponentially to 136,000, and they rejected just 86 of those applications. So, can you tell us why IRS enforcement is so important?

Mr. HACKNEY. It is key, because these dollars are being used to carry out the most important things we do. If there is no check on that, we subject ourselves to fraud, and we subject our fisc to being abused in significant ways, and the Federal Government effectively endorsing problematic activities.

I think we need a stronger application checking system and a stronger audit system. It makes a difference in terms of our non-profit sector that is carrying out such important aspects: our health care, getting food on the table of people, supporting elections, and supporting our democracy. That is key.

Ms. CHU. Thank you.

I yield back.

Chairman SCHWEIKERT. Unanimous consent to accept the documents for the record from Ms. Chu.

[The information follows:]

Testimony Submitted for the Record
House Committee on Ways and Means
Subcommittee on Oversight
Hearing on Growth of the Tax-Exempt Sector and the Impact on the American Political
Landscape
December 13, 2023

Matt Corley, Chief Investigator, Citizens for Responsibility and Ethics in Washington (CREW)
and Debra Perlin, Policy Director, CREW

Chairman Schweikert, Ranking Member Pascrell, and members of the Subcommittee, thank you for the opportunity to submit testimony regarding the growth of the tax-exempt sector and the impact on the American political landscape.

Citizens for Responsibility and Ethics in Washington (CREW) is a nonpartisan, nonprofit organization committed to promoting ethical, transparent and accountable governance, protecting our political system from corruption, and reducing the influence of money in politics. For more than a decade, CREW has sought to fight against those who would seek to use – and abuse – tax-exempt organizations, particularly those organized under section 501(c)(4) of the tax code, to circumvent the disclosure requirements that serve as a cornerstone of the anti-corruption interests in the American campaign finance system. Building on this committee's September 2023 request for information to understand section 501 tax-exempt entities,¹ this hearing marks an important opportunity for Congress to address weaknesses in the law and deficiencies in the current approach to enforcement that have undermined efforts to fight corruption in our political system.

Since the Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission* and the subsequent U.S. Court of Appeals for the District of Columbia's ruling in *SpeechNow.org v. Federal Election Commission* altered the legal landscape for political activity by corporations, including certain types of tax-exempt nonprofit organizations, the American political system has been flooded with anonymously-sourced spending.² As a result, American voters have often been left in the dark about who is trying to influence their decisions at the ballot box and who may be influencing the decisions of the elected officials who set policies that directly impact their day-to-day lives.

¹ Debra Perlin and Matthew Corley to the Honorable Jason Smith, et al., Re: Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code, Sept. 8, 2023,

https://www.citizensforethics.org/wp-content/uploads/2023/09/CREW-Response-House-Ways-and-Means-RFI-c4_c3-political-activity.pdf.

² Karl Evers-Hillstrom, *More money, less transparency: A decade under Citizens United*, *OpenSecrets*, Jan. 14, 2020, <https://www.opensecrets.org/news/reports/a-decade-under-citizens-united>; Anna Massoglia and Karl Evers-Hillstrom, *'Dark money' topped \$1 billion in 2020, largely boosting Democrats*, *OpenSecrets*, Mar. 17, 2021, <https://www.opensecrets.org/news/2021/03/one-billion-dark-money-2020-electioncycle/>.

Much of that secret spending has been shielded from public view through the use of section 501(c)(4) organizations that engage in political activity without disclosing who finances their expenditures.

The ability to conduct unlimited independent campaign spending or to make unlimited contributions to super PACs while avoiding donor disclosure transformed these types of tax-exempt groups into a favorite vehicle for individuals and organizations that want to impact elections without facing public scrutiny or accountability. For these same reasons, as the Department of Justice recently described during the sentencing of former Ohio House Speaker Larry Householder following his conviction on federal racketeering charges that centered on his acceptance of tens of millions from an energy company into a section 501(c)(4) organization he controlled, “a 501(c)(4) is the perfect vehicle for bribery” because it can receive “unlimited and unreported payments” that can benefit the interests of public officials.³

Political activity is not supposed to be the heart of these organizations’ operations. Section 501(c)(4) provides tax-exempt status to organizations “not organized for profit but operated exclusively for the promotion of social welfare.”⁴ IRS regulations interpret the statute to mean a section 501(c)(4) organization must be “primarily engaged in promoting in some way the common good and general welfare of the people of the community.”⁵ The regulations further provide that “direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office” does not promote social welfare.⁶ The IRS has not formally defined the “primary activity” standard and instead provides that all the “facts and circumstances” are to be taken into account in determining the “primary activity” of a section 501(c)(4) organization.⁷

The current IRS posture is widely understood to mean that a section 501(c)(4) organization may not dedicate more than 50 percent of its expenditures to political activities. Effectively, this allows politically-minded section 501(c)(4) organizations to spend large sums influencing elections as long as they can offset it with other spending, which can often be

³ Press Release, United States Attorney’s Office, Southern District of Ohio, Former Ohio House Speaker sentenced to 20 years in prison for leading racketeering conspiracy involving \$60 million in bribes, June 29, 2023,

<https://www.justice.gov/usao-sdoh/pr/former-ohio-house-speaker-sentenced-20-years-prison-leading-racketeering-conspiracy>; Government’s Sentencing Mem. for Def. Larry Householder at 15, *United States v. Larry Householder*, No. 1:20-cr-00077-TSB (S.D. Ohio, Jun. 22, 2023), ECF No. 278, <https://www.documentcloud.org/documents/23857046-larry-householder-sentencing-memo>.

⁴ 26 U.S.C. § 501(c)(4).

⁵ Treas. Reg. § 1.501(c)(4)-1(a)(2)(i). As CREW has long noted, by allowing section 501(c)(4) organizations to be only “primarily” engaged in social welfare, the regulation misinterprets the plain meaning of the word “exclusively” in the statute.

⁶ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

⁷ Rev. Rul. 68-45, 1968-1 C.B. 259.

done through activities such as sham issue ads or grants to other politically-active nonprofits that may still support their political goals, just less explicitly.

Over the years, CREW has filed numerous complaints with the IRS requesting investigations of whether politically-active section 501(c)(4) organizations were operated primarily to influence elections or failed to properly report their political activity to the IRS. Unfortunately, as CREW explained in an April 2022 report, the IRS has done a poor job of enforcing the law related to political activity by section 501(c)(4)s.⁸

According to a 2020 Government Accountability Office report, between 2010 and 2017, the IRS conducted and closed 226 examinations related to tax-exempt organizations' failures to comply with the rules on political campaign activity.⁹ But only 14 of those examinations involved section 501(c)(4) organizations, despite the immense increase in political activity by these organizations during the same time period.¹⁰ For much of the time since *Citizens United*, the IRS did not revoke any section 501(c)(4) group's tax-exempt status for violating the law's limits on their political spending.¹¹

The sharp rise in political activity unleashed by *Citizens United* combined with the IRS's lax enforcement has led some observers to believe that the IRS has given up on this part of its job. While there are certainly legislative and regulatory changes that could help address concerns about the exploitation of loopholes to use tax-exempt organizations to influence American elections without disclosing funding sources, more vigorous enforcement by the IRS of the current rules related to political activity by nonprofit organizations is also essential.

The IRS can and should take appropriate steps to improve enforcement related to political activity in the tax-exempt sector, but Congress has also placed considerable constraints on the agency that limit its ability to act on its own. In particular, the IRS cannot currently act on its own to issue further guidance related to political activity by section 501(c)(4) organizations. Since 2015, a budget rider has prohibited the IRS from using funds "to issue, revise, or finalize any regulation, revenue ruling, or other guidance ... to determine whether a [501(c)(4)] organization is operated exclusively for the promotion of social welfare."¹²

⁸ Matt Corley and Adam Rappaport, [The IRS is not enforcing the law on political nonprofit disclosure violations](https://www.citizensforethics.org/reports-investigations/crew-reports/the-irs-is-not-enforcing-the-law-on-political-nonprofit-disclosure-violations), *Citizens for Responsibility and Ethics in Washington*, Apr. 28, 2022, <https://www.citizensforethics.org/reports-investigations/crew-reports/the-irs-is-not-enforcing-the-law-on-political-nonprofit-disclosure-violations/>.

⁹ U.S. Government Accountability Office, Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives (Feb. 2020), <https://www.gao.gov/assets/710/705927.pdf>.

¹⁰ *Id.*; See also <https://www.opensecrets.org/outside-spending/dark-money-groups/summary>.

¹¹ Maya Miller, [How the IRS Gave Up Fighting Political Dark Money Groups](https://www.propublica.org/article/irs-political-dark-money-groups-501c4-tax-regulation), *ProPublica*, Apr. 18, 2019, <https://www.propublica.org/article/irs-political-dark-money-groups-501c4-tax-regulation>.

¹² Department of the Treasury Appropriations Act, 2016, Pub. L. No. 114-113, § 127129 Stat. 2433 (2015).

At the bare minimum, Congress should remove this rider and allow the IRS to clarify the rules for all stakeholders. Members should also look seriously at closing loopholes in campaign finance law that politically-active tax-exempt organizations exploit to minimize the activities they report to the IRS as direct or indirect campaign intervention. For instance, Congress should address the digital electioneering communications loophole that means paid online ads that target candidates in close proximity to elections do not need to be reported to the Federal Election Commission if they avoid using express advocacy language, even if the same exact ad run during the broadcast of a TV show would trigger reporting as an electioneering communication.¹³

Thanks to the Supreme Court's *Citizens United* decision, tax-exempt organizations that are not required to disclose their contributors, particularly those organized under section 501(c)(4), have played a significantly increased role in the funding of American elections, resulting in serious gaps in the American public's knowledge about who is seeking to influence their votes and their elected leaders. Congress should take action to shine light on dark money by empowering the IRS to both enforce and clarify the rules governing political activity by tax-exempting organizations and by closing loopholes in campaign finance law that those organizations exploit to spend large sums influencing elections while keeping the sources of that spending in the shadows.

¹³ Making electioneering communications, Federal Election Commission, <https://www.fec.gov/help-candidates-and-committees/other-filers/making-electioneering-communications/>; Matt Corley, [Trump admin alums' dark money group exploits loopholes to obscure spending](https://www.citizensforethics.org/reports-investigations/crew-investigations/trump-admin-alums-dark-money-group-exploits-loopholes-to-obscure-spending/), *Citizens for Responsibility and Ethics in Washington*, Nov. 10, 2022, <https://www.citizensforethics.org/reports-investigations/crew-investigations/trump-admin-alums-dark-money-group-exploits-loopholes-to-obscure-spending/>.

Chairman SCHWEIKERT. Now we are going to go to two to one, Mr. Fitzpatrick.

Mr. FITZPATRICK. Thank you, Mr. Chairman.

Thank you all for being here today. During my time in the FBI, one of my roles that I had was serving as national director of the Bureau's Campaign Finance and Election Crimes Enforcement program. And my job, and those that worked with us, was to ensure that the American people could rely on their government institutions having unshakable integrity, especially our electoral systems.

Foreign individuals, foreign entities have no business interfering or influencing our elections in any way, shape, or form at any level of government. And Congress certainly has a responsibility to improve the security of our elections and to restore faith and confidence in our institutions. So I want to commend the chairman for holding this hearing today.

Mr. Chung, if I could start with you, currently there is no requirement for tax-exempt organizations to report whether a contributor is, in fact, a foreign individual or foreign organization. Sir, in your research and in your experience, is there any way of estimating where certain contributors to 501(c)(3)s and (c)(4)s are making their donations from?

Or better put, are there—there are certain nations, such as our strategic competitors and adversaries, which have individuals or entities that are donating heavily to tax-exempt organizations. Have you seen that in your experience?

Mr. CHUNG. So let me describe what the Schedule B of the Form 990 requires. It does depend on the type of 501(c) [sic] organization you are talking about.

So 501(c)(4)s do not have to disclose their donor information, meaning the names and addresses of their substantial donors. They simply need to disclose the dollar amount. Whereas, for 501(c)(3)s, they are required by the statute to disclose the names and addresses of their substantial contributors. So the amount of information that law enforcement agencies would be able to get from the Schedule B depends on what type of 501 organizations we are talking about. So it depends.

Mr. FITZPATRICK. Mr. Walter, specifically zooming in on state ballot initiative and referendums, have you seen any evidence of foreign involvement, either overtly or covertly, in the ballot initiative, particularly at the state and local level?

Mr. WALTER. Thank you for the question, Congressman. The ballot initiatives have an unusual part in our political process, because it is a case where 501(c)(3)s, as well as (c)(4)s, are allowed to play in ballot initiative elections. And therefore, yes, you do see a great deal of (c)(4) and (c)(3) money going into that. And we know that there are cases like Mr. Wyss's, where there are foreign dollars going into that. And that, by the way, is another policy change that has been argued, that you could change the law to forbid foreign money for ballot initiatives.

Mr. FITZPATRICK. Do any of the others wish to comment on that?

For reference, there is a piece of legislation, the Stop Foreign Funds in Elections Act, authored by yours truly, that just passed

the House Committee on Administration. I encourage all my colleagues on both sides of the aisle to join that legislation.

I yield back, Mr. Chairman.

Chairman SCHWEIKERT. Thank you, Mr. Fitzpatrick.

Mr. Steube.

Mr. STEUBE. Thank you, Mr. Chairman.

It is undeniable that the growth of the tax-exempt sector has had a significant effect on the American political landscape. Many of these groups help provide a voice for millions of Americans to effectively communicate important political messages across the ideological spectrum. Unfortunately, other non-profit entities have abused the system to pursue more nefarious goals.

In the 2020 election Facebook founder Mark Zuckerberg funneled nearly \$350 million through a non-profit called the Center for Tech and Civic Life, or CTCL, to 2,500 election departments across 47 states. These Zuckerbucks, a term used to describe private entities donating money to fund the official government vote counts, were distributed by CTCL, which was run by a former Obama Foundation fellow.

As conservatives have been decrying for years now, and as Mr. Whitson notes in his testimony, there was massive disparity in the amount of funds allocated to red counties versus blue counties. The flooding of cash by private leftist activities into our election systems and structures went uncriticized by the left in the mainstream media, but it helped their side.

As both sides decry the other for use of dark money funding campaigns, I want to focus on the use of private money injected into the government itself to advance candidates in the Democratic Party. In Mr. Whitson's testimony, I would like to quote a line that he said: "It appears that CTCL, a 501(c)(3) organization, used Zuckerbucks to hijack and transform the government itself into a partisan, get-out-the-vote tool." That is very troubling.

The Constitution makes explicitly clear in Article I, section 4 that individual states have the primary role in establishing election law and administering our elections. Yet that did not stop President Biden from issuing Executive Order 14019, which tramples on states' rights and enables Federal agencies like the GSA to engage in voter registration and share election information. This is simply not the role of the Federal Government, and taxpayers should not be paying for it.

Allowing private individuals and companies to fund official election practices opens the door to corruption and the weaponization of non-partisan civic institutions for political gain. The abuse of non-profits to manipulate the functions of government for partisan purposes must stop. I am glad that more than half of the states in the union have passed legislation to stop this. We need every state legislature in the country to pass legislation to prohibit state and local election officials from accepting private donations to fund election-related expenses.

Mr. Whitson, I will start with you, since I quoted some of your testimony. You point out these Zuckerbucks were focused on certain jurisdictions favorable to candidates of the Democratic Party. And I heard your exchange with the chairman about doling out the

funding based on geographic area. But if you could expound on that, I would appreciate it.

Mr. WHITSON. Yes, thank you for that question, Congressman.

So what it appears from our research is that dollars were distributed into jurisdictions that were perceived as blue strongholds, primarily. And although the grant program was opened up to everyone, it appears that certain jurisdictions were probably targeted with communications and things like that to encourage them to apply for the grants. So some grants did go to red counties, but the vast, vast majority went to blue counties.

And so I gave that example of Georgia, which you can look at it from the outside, and you can see this kind of looks like they found a swing state. They are pushing a disproportionate amount of money into this state, and it is only going into blue strongholds where Hillary Clinton won in 2016.

But there is a lot of other examples. So another one is Pennsylvania. 25 million in Zuckerbucks were awarded, and more than 90 percent of the grant dollars went to counties that Joe Biden won. Michigan received \$15 million in Zuckerbucks, and more than \$7 million went to the City of Detroit alone, which is a known Democrat stronghold.

Wisconsin, and here is an interesting one, because it goes beyond money, it is also the coaching aspect. In Wisconsin, 10.1 million, of which 1 million was funneled into Green Bay, Wisconsin. To put it in perspective, Green Bay's election budget was \$330,000, and so that increased their budget by a staggering 331 percent. And so, what makes Green Bay more troubling, too, is an employee from CTCL was put on the ground to help coach the election administrators there on how to run their program more efficiently.

And again, going back to some of the comments we were saying earlier, it is not just about stopping fraud, but it is also the appearance of fraud. We want to inspire confidence in elections. And so when that kind of behavior takes place from a private organization, takes over the functioning of the election itself, that creates doubt. And that is problematic, no matter what side of the aisle you are on.

Mr. STEUBE. And you go into detail about the Bidenbucks program that will result from the taxpayer-funded voter turnout program started by President Biden. And in my limited time left, if you could, just expound upon that.

Mr. WHITSON. Yes. So that program is calling for every Federal agency to use those Federal agencies to basically conduct voter registration with these "approved third-party groups."

And so what we know so far from Health and Human Services, more than 1,400 federally qualified health centers across the country are being turned into voter registration hubs. The Department of Labor is turning 2,300 American job centers into voter registration hubs. Housing and Urban Development sent guidance to more than 3,000 public housing authorities, who control over 1.2 million housing units, to use those as voter registration hubs. The Department of Education sent guidance to use work-study funds to pay students to work on and off campus to register people. So that is just a flavor of what is going on.

Mr. STEUBE. Thank you guys for being here today. I yield back.

Chairman SCHWEIKERT. Thank you, Mr. Steube.

Ms. Moore.

Ms. MOORE. Thank you very much, Mr. Chairman, and thank our witnesses for appearing today.

I just maybe want to start with Mr. Chung, just seeking some clarification. What we are generally talking about is dark money. Is that fair? The testimony that we have heard today, they are talking about what they consider dark money in campaigns, 501(c)(4)—that activity.

Mr. CHUNG. Thank you for the question.

Ms. MOORE. It is from undisclosed funding sources. They can engage in political activity while not disclosing their donors, as long as this is not their primary activities, and that the definition of what activity that they can engage in?

Mr. CHUNG. To the extent that dark money means a lack of—

Ms. MOORE. It is a nickname for it. But, you know, we heard testimony here today, I believe, from Mr. Walter, about a couple of people in particular that are funneling money all over the country for get-out-the-vote efforts. But when we talk about dark money, isn't that a much broader category of very, very wealthy people, for the most part?

I am thinking about running around with get-out-the-vote tee shirts on that are non-partisan, as compared to, after Citizens United, the Supreme Court decision in Citizens United, that this is much more of an avenue for political activity for wealthy people. Am I wrong about that when we look at concerns about dark money?

Mr. CHUNG. [No response.]

Ms. MOORE. So, Mr. Hackney, can you answer that for me?

Mr. HACKNEY. Yes, ma'am, Representative Moore. It is primarily about wealthy individuals having the ability to put money into an election without their fingerprints upon it so you are not able to see where those dollars are coming from.

Ms. MOORE. And these are 501(c)(4) organizations.

Mr. HACKNEY. Dark money is primarily 501(c)(4), but can be 501(c)(6) business leagues, as well. And both of those organizations do not have to report their donors.

Ms. MOORE. Okay, and so we have heard a lot of complaints here today from our guests about, you know, these voter registration schemes. And what I am saying is that what we have said that campaigning is that money is speech. So, these are people—when we look at the demographics of about 64 percent of the people who are eligible to vote, this is the new American majority. They are young people, they are people of color, they are unmarried women. And so, outreach to them politically, not leading them toward a particular candidate, is this the speech that we are—we have talked about today that is supposed to be, you know, at the pinnacle of corruption?

Mr. HACKNEY. Representative Moore, generally, the dark money concept absolutely is not about voter registration. That is more happening within (c)(3)s and has long been a part of it. In my opinion, the most important things we can do in a democracy is get our people to be registered to vote, and get out to vote. We

should have everybody: red districts, blue districts, all across the nation. And to the extent charities can do that, I think they should.

Ms. MOORE. I mean, this is a charitable social activity. Because I know that if you move around a lot, if you are poor, you may not know it is Election Day. And so we are—left to those people who could afford to do commercials on TV, buy radio time, you know, the regular people will not have any voice, so I just want to change the tone, Mr. Chairman, of this, and just remind people that if there are things we need to make sure of to keep foreign money out of the 501(c)(4) political activities, let's work on that.

But let's not turn this into a corrupt view, as the chairman of the full committee said, of voter registration, I mean, why are we looking at a view of wanting more people to register to vote as something that is negative? We had a 66 percent turnout in 2020. And are we really sitting here grieving over that at this point, and trying to legislate against people's ability to do this? I hope not.

And Mr. Chairman, thank you for your indulgence with my little rant here, and I yield back.

Chairman SCHWEIKERT. Thank you, Ms. Moore.

Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman, and I thank the witnesses for being here.

I don't think it is any secret that I founded the Election Integrity Caucus after my quite, my very interesting election of 2020, where on Election Day I was winning by 28,422 votes—and yes, we counted every vote—after 100 days. We even registered voters in January that counted in November of 2020. So I really appreciate the talking about this issue.

In the Election Integrity Caucus, we have over 60 members. We have had some people retire. We are always looking to have Democrats. And of course, some of my Democrat friends from New York City, once they lost the primary, said, "We need more election integrity," so I would love to have them join on as emeritus members.

But I put in the End Zuckerbucks Act because, and thankfully, that lead was taken by a number of states around the country to end Zuckerbucks, and Mr. Walter, thank you so much for continuing to fight the election integrity issue, and thank you for the shoutout to Mr. Whitson for promoting the Free and Fair Elections Act to get rid of the Biden executive order that is really electioneering, and an attempt to, in a partisan way, use the government in place of what Zuckerbucks was out to do, using dark money. And the darkest of dark money is exactly as you cited, Mr. Walter, this newfound way to use (c)(4)s into (c)(3)s, and to hide the fact that these are partisan. And Zuckerbucks was a perfect example of how partisan these were.

And I don't think it comes as any surprise to anyone that the 2020 election really came down to three states, and it was about 44,000 votes. Our entire U.S. election in 2020 was about 44,000 votes, really just, you know, as you cited with Georgia, Arizona, and Wisconsin, very narrow margins and a huge amount of money coming from Zuckerbucks to really prime the pump and get out the vote. And yet the Democrats always say, "Well, this widespread fraud," well, I don't know if that is what I would call it, but I would

call it priming the pump and taking advantage of the use of these not-for-profits in a negative way.

I worry, as Mr. Steube did, about this problem with what is happening with this new executive order in using our federal agencies without any oversight from taxpayers to be able to fund this. And I just wanted to first ask Mr. Walter if you could maybe give us a little bit of follow-up on what is going on with the Alliance for Election Excellence that was created by CTCL, and where that is taking the CTCL, and what we are seeing in response to Zuckerbucks.

Mr. WALTER. Well, thank you for the question, Congresswoman Tenney, and thank you for your leadership on the issue.

You are quite right. With the help of you and others bringing attention to the problem of Zuckbucks, the majority of American states have now banned such private funding in their elections. However, I give the Center for Tech and Civic Life credit. They have rebranded this effort into the Alliance for Election Excellence, and they have amazing schemes about this.

So they will, in places where they are not able to simply write checks, they will say, oh, we are going to give you credits, or we are going to give you scholarships, and you can spend the credits at our partner organizations. And oh, by the way, we are going to come in and give you improvement plans for how you can better run your office.

Ms. TENNEY. Let me ask you this, because this is highly partisan. And you referred to pop-up groups. It appears that, from your reporting, there are over 340 so-called pop-up groups that remain under the 990 purviews, our ability to look at where this dark money comes in. Can you explain how partisan these are, and why they are something that the IRS should be looking into, and they are not?

Mr. WALTER. Well, the Arabella Advisors is the poster child for this sort of thing. They admit to having over 500 pop-up groups that they have created over the years, and these groups will pop up long enough to attack you in your election and disappear.

And a pop-up group does not have to report. It doesn't have a board. It doesn't have to report any individual things that regular non-profits do, like how much they spend on fundraising, and all sorts of things like that. So they stay in the dark.

Ms. TENNEY. So as Professor Hackney would say, talk about making dark money darker. I want to ask you a question, though.

In Mollie Hemingway's book, "Rigged," she goes into extensive discussion about the influence of the Zuckerbucks and the Mark Zuckerberg money. She even makes the conclusion that, had it not been for Zuckerbucks, the results of the 2020 election would have been different. How do you feel about her conclusion on that?

Mr. WALTER. Well, I am proud to say that if you check her footnotes, you will find a lot of our research there. And we studied every single battleground state and both the great disproportion, as my colleague here said, in the funding of Democrat areas is enormous. And the increase in Democrat turnout in the funded parts of those states is much greater than in the other part, the unfunded parts of those states. So I don't think it is unreasonable at all to believe that they made the difference in those states.

Ms. TENNEY. So you agree that it influenced greatly the outcome of the 2020 election?

Mr. WALTER. Very much so, and all our data can be downloaded online, crunch the numbers yourself if you don't believe me.

Ms. TENNEY. Thank you so much, I yield back.

Thank you to the witnesses again.

Chairman SCHWEIKERT. Thank you, Ms. Tenney.

Mrs. Fischbach.

Mrs. FISCHBACH. Always a challenge for me to reach the button. It is a challenge of being short.

But Mr. Hackney, you know, I just wanted to walk through a little scenario with you, and then I am going to ask everybody for their opinion on it. But if a foreign national from a country that is an adversary of the United States wanted to donate millions of dollars to a 501(c)(3), is there any reporting requirement—I think you mentioned earlier—that would let Americans know that the American adversaries are funding a non-profit?

Mr. HACKNEY. The government itself would get names and addresses on the Schedule B, because the Schedule B names and addresses have not yet been removed. There is a challenge to that. Buckeye Institute has a case challenging that. But right now, the government has that information, but the public does not. So the public does not have that information.

Mrs. FISCHBACH. Could this non-profit then spend millions of dollars on issue advocacy campaigns to support policies that reduce, let's say, American's energy independence or any other they may come up with?

Mr. HACKNEY. So let's be precise on issue advocacy. When we are talking about issue advocacy, it is a great question. Issue advocacy are commercials that go into a policy space, and many (c)(3)s will argue that they are able to engage in some of this space without violating the campaign intervention.

If it moves—

Mrs. FISCHBACH. But the money, if you are following the money, I mean, I understand—

Mr. HACKNEY. You would not be able to see it.

Mrs. FISCHBACH. You would not be able to see it. Could that same non-profit funded by American adversaries use the funds to conduct get-out-the-vote activities in targeted, or not targeted, but in places that maybe support a certain candidate?

Mr. HACKNEY. Yes. So a charitable organization is able to carry out get-out-the-vote efforts, and there is nothing that stops that from taking place, no.

Mrs. FISCHBACH. And then, could that same non-profit also send money to a 501(c)(4) organization that is able to donate to a super PAC which can run television and all of that?

Mr. HACKNEY. Right, yes. So this is an interesting aspect.

The Supreme Court itself in *Regan versus Taxation with Representation* found that the limitation on lobbying for charities, satisfied the First Amendment challenge because the (c)(3) can give money to a (c)(4), and in turn give it to a PAC. So under First Amendment principles, we have long accepted this as an aspect. But yes, you are correct, they can do that.

Mrs. FISCHBACH. So yes, okay. I open it up to the rest of the panel if any of you would like to comment on that. You know, so those non-profits could impact American elections in all kinds of ways, but there is no way for Americans to even know how much of the money they received from foreign nationals. Is there any comments that you would like to make about kind of the scenario?

Anyone? I have a few minutes. I didn't know if I would have minutes left, so I was trying to abbreviate things, but anyone wanted to comment on that, kind of following the money trail? Mr. Walter?

Mr. WALTER. Well, I would just say that the examples I gave are the most egregious ones I know of, and they happen to be on the left with Democrats. But I certainly oppose foreign nationals helping anybody, and I would think that, again, across the aisle, this is something we could all agree on. We don't want Russian oligarchs contributing. We don't want Chinese communist princelings contributing. We don't want Arabs who may have old, very painful views of women and homosexuals interfering in our elections. There are no shortage of problems that could arise from this.

And we heard talk earlier about campaign finance reform. No campaign finance laws ever touch (c)(3)s.

Mrs. FISCHBACH. Thank you. Anyone else?

With that, Mr. Chair, I will yield back. Thank you.

Chairman SCHWEIKERT. Thank you, Mrs. Fischbach.

Ms. Van Duyne.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman.

Last month the committee held a hearing examining how unreported donations from foreign entities are influencing our colleges and our universities, and charitable donations through university endowments have grown astronomically to the tune of billions of dollars, while American universities have become hotbeds for left-wing indoctrination, often at the cost of student safety and well-being.

The recent reports of violence against Jewish students on college campuses is just the most recent example. Last week, presidents of so-called elite universities could not answer simple questions about genocide. We continue to see opportunities for universities to say and do the right thing, yet when given the opportunity to do so they double down on their failed policies. University leadership's response, or lack thereof, raises serious concerns for the well-being of students, faculty, and staff, and calls into question the types of messages that these entities are promoting.

The 501(c)(3) organizations are expected to abide by ethical standards that promote the public good. And I think we have got ample reason now to doubt whether or not they are meeting that standard. So Mr. Walter, in your research, have you seen instances where universities are using their endowments as a tool to support faculty positions and advance program missions that push some extreme political views?

Mr. WALTER. Thank you for the question. Yes, we, as you say, we have seen this very vividly in recent weeks. And perhaps I would suggest you might consider entering into the record a superb Wall Street Journal op-ed on this problem by the brilliant philanthropy scholar, Les Lenkowsky, who wrote very clearly about this,

and even raised the possibility that places like Harvard and the University of Pennsylvania may be endangering their tax exemptions by their actions.

Ms. VAN DUYNE. I appreciate that. The 501(c)(4)s are held to a standard where 51 percent of activity must be educational, and cannot spend a majority of time on lobbying, and yet universities are not held to this standard. Correct?

Mr. WALTER. That is correct, nor do they have a minimum payout requirement on their endowment.

Ms. VAN DUYNE. Do you have any concerns about, right now, some of the dollars, where they are flowing from into these universities?

Mr. WALTER. Well, that has been massively documented, especially from Chinese sources. There is a deeply disturbing amount of foreign dollars going into universities.

Ms. VAN DUYNE. Are there any particular universities that you think we should be looking at?

Mr. WALTER. There are so many that I hesitate to name them. I mean, the Confucius Institute is probably the single most egregious example, but that is in many universities.

Ms. VAN DUYNE. Mr. Walter, do you see an issue where universities are hiding behind the title of education, yet are actively indoctrinating students and pushing a liberal agenda?

Mr. WALTER. Yes. In fact, I quoted a friend who, when he went to visit a campus with his son to consider it, they were bragging. The professor was bragging about how he turned students into social activists. I don't think that is a proper role for universities, especially given their tax exemptions.

Ms. VAN DUYNE. I appreciate that. I am a graduate from Cornell University, and we had a university professor there, a history professor, Russell Rickford, who recently was talking about the Hamas atrocities on October 7 in Israel and the Gaza Strip, and he called them, we won't use the words that he used, because I don't want to give him that much credit, but it was horrible for me to see that happening at my university, my alma mater, and not to have him fired immediately. Instead, he has been placed on leave after there was a tremendous amount of pressure. But he is still getting paid.

Mr. WALTER. Yes. May I add, too, this shows you a real example of how donor disclosure is such a threat. I do not want to see Jewish donors harassed because they have been forced by the government into the spotlight because of their giving to support nonprofits that support Israel.

Ms. VAN DUYNE. I appreciate that.

While the IRS has shown in the past that they cannot enforce laws on this unbiasedly, how can Congress change the laws to ensure that these requirements are being properly enforced?

Mr. WALTER. Well, that is a tall order, and I don't know that there is a way to make it all better.

As I said, I think a lot of the worst abuses come up either because there is no law, like there is no law against foreign nationals contributing to non-profits, or because the law is extremely murky, like the law governing (c)(3)s and voter registration. So clarifying the laws will often improve things considerably.

Ms. VAN DUYNE. Mr. Whitson, do you have anything to add to that?

Mr. WHITSON. The only thing is whenever there is an instance where the focus can be on the adversary versus the 501(c)(3), (c)(4), that should be the instinct. And so, if the adversary is China, and there are things we can do to monitor Chinese funding before it comes in, things like that, in my mind, would be the first focus. And then, where you find areas where you can't, then you can explore other avenues. But I would always start with that in mind.

Ms. VAN DUYNE. Thank you very much, and I yield back.

Chairman SCHWEIKERT. Thank you, Ms. Van Duyne.

Mr. Feenstra.

Mr. FEENSTRA. Thank you, Mr. Chair.

And thank you for all of your testimonies. You hear a reoccurring theme that we have problems, and we have a lack of information. This is being seen through all agencies and what we do, especially when it comes to waste and fraud. So, I am trying to look for solutions. What can we do to resolve our problems that we have here?

We met with the folks at CAO, and the Federal data is in such a poor state that the ability to investigate fraud is severely limited. We have reached out to the CRS and IRS on total utilization of a tax credit. They can't provide any information on this. It is tough to operate Federal programs when you can't get data and you can't then create the solution to the problem. And that is what we are having here. So that is what I want to talk about.

Mr. Chung, we have heard concerns from witnesses today about the money from foreign nationals coming into our political system through the non-profit sector. But I would also like to know what tax-exempt organizations need to report in terms of their activity outside the United States, including grants, fundraising activity, investments, and stuff like that.

So if you look on the Schedule F of the Form 990, is there anything that we can change on this form or that you look at it and say, all right, this is what we have to report, and this is what we should be reporting?

Mr. CHUNG. Yes, thank you for the question. CRS is a non-partisan organization, so I can't say what should and shouldn't be changed about the form, the schedule of the Form 990. I can generally describe what is available in that form. And it is, as you mentioned, it is supposed to report foreign activities of a tax-exempt organization. And they report it by region.

Mr. FEENSTRA. Yes, that is a problem, isn't it?

I mean, you think about reporting by geographic regions as opposed to an organization in totality. Do you see that as a problem?

Mr. CHUNG. Well, I can't, respectfully, I can't say if it is a problem or not, but there certainly isn't information about the organization that those grants may be going to.

Mr. FEENSTRA. Right, right, right. Well, Mr. Chung, if you just take a step back, and I know that you can't talk about some of these things, but would you say one of the key issues is the lack of information that we currently are getting?

Mr. CHUNG. Yes, thank you for the question again. So there is varying levels of information that is required to be disclosed by a

tax-exempt organization, and it is going to depend on the type of organizations we have.

So generally, 501(c)(4) organizations have less disclosure requirements.

Mr. FEENSTRA. Very little disclosure requirements.

Mr. Walter, can you answer some of these questions?

I mean, what is your thought in this area?

I mean, I just look at it and say, all right, we are the taxing body here. I mean, we have to have the information to make good decisions and create solutions.

Mr. WALTER. Well, I do worry that there is a lack of information provided about foreign activities by U.S. exempt organizations. There is—the concern, of course, sometimes they are operating in a dangerous part of the world, in which case it can be touchy to be revealing that. On the other hand, we have a whole report on how the Soros philanthropies have almost certainly violated U.S. law by meddling in European elections.

Mr. FEENSTRA. Right, right. And I am not talking about private information. I am talking about the quality of information. To me, it is the quality of information of what we are getting that we can make decisions, and that is where we can go after some of these bad actors.

The bottom line is we have bad actors in what is happening. Mr. Whitson, can you comment on any of this?

Mr. WHITSON. Congressman, nothing more to add, other than kind of what I alluded to earlier. If there is a way to target the foreign adversary or the person we are worried about instead of the 501(c)(3) or (c)(4), I think that is the first place to start, and then to take it from there.

Mr. FEENSTRA. Exactly right. And again, I just think there has got to be protocols from the IRS and CRS to say, hey, this is the information we need. That is part of this body's job, I think, is to start going down that path and say, what are the data that we want?

And I get it, there is private data that we don't want to collect, but there is also the quality of data that we should collect, and that we could do something with, and then follow the law.

Thank you, and I yield back.

Chairman SCHWEIKERT. Thank you, Mr. Feenstra.

Ms. Malliotakis.

Ms. MALLIOTAKIS. Thank you very much. I appreciate everyone being here today to talk about the role that the tax-exempt sector has played positively in our economy, but also some of the issues that certainly need oversight. As we know, bad apples can spoil the bunch.

As you all know, we are currently fighting an unprecedented number of migrants coming through our southern border, and it is firmly believed that assistance is being provided to thousands of these individuals before they even set foot in the U.S., from being told what to say and some even having the business cards of nonprofits and immigration attorneys in their possession.

We know that individuals crossing our border through the southern border, quite frankly, every single one of those individuals is paying the drug cartels to get here. That is the reality. That is how

the drug cartels are making billions of dollars every month that then they in turn use to traffic drugs into this country and kill young Americans. We saw 100,000 deaths. So it is all connected. I mean, that is the bottom line here.

And we have non-profit organizations that are helping in this trafficking of individuals that end up profiting these drug cartels poisoning Americans. So I guess my question is, we know of some larger names. Catholic Charities has come up. Salvation Army. I mean, one of my local news affiliates, they said that the Salvation Army even provided migrants with a plane ticket and a note directing the TSA to allow the individuals through airport screening and to board the plane, like that piece of paper is supposed to be their identification to get on the plane. I mean, this act alone should be grounds for swift action.

But we also know that Catholic Charities in San Antonio has arranged more than 4,000 flights to cities like Chicago and Denver and New York.

My city is dealing with a crisis now because of the President's open border policy, and we have local institutions who are helping. They are getting tens of millions of dollars in contracts to house these individuals. They are taking away an assisted living facility from seniors in my district to put these individuals who just cross into our country from the border. And after just residing in 30 days, Bill DeBlasio tried to pass a law that says they can actually register to vote if they have work authorization, which is just outrageous.

And then you have these groups, Legal Aid Society, for example, in New York City, that is pushing the mayor to continue to house these individuals, saying that the New York City Right to Shelter law actually applies to citizens of other countries. It was meant for New Yorkers, not citizens of other countries.

So you have all these non-profits, local and national, that are playing a role in this illegal immigration, okay, and we have to figure out a way to stop it. And so my question for Mr. Walter, to start, would be, you know, considering these, the role that these 501(c)(3) organizations are playing, they are relying on taxpayer-funded grants from the Biden Administration or elsewhere to do this. They are receiving private funds, they are receiving foreign funds, they are receiving all sorts of government funding to continue this madness that my mayor says is going to destroy New York City. And we see what is happening all across, completely.

What can we do about this? Should taxpayers be concerned about these 501(c)(3) entities that directly undermine our efforts to secure the border and help relocate unvetted individuals to communities all over the country?

And what can we do about it as an oversight committee?

Mr. WALTER. Well, thank you for the question. Government funding of non-profits is always a problematic issue. The great Senator Daniel Patrick Moynihan, a Democrat, from New York, famously was disturbed deeply as he saw a growing percentage of non-profits, who should really be supported by private citizens, become more and more supported by the government, because it creates precisely this problem that you say. On the one hand, I believe the non-profits do care about the sufferings of immigrants. But at

the same time, they are given this enormous financial incentive to increase the number of immigrants precisely to increase the amount of government dollars coming into themselves. And I think charities dominated by government dollars are not going to be as effective as charities supported by private citizens.

Ms. MALLIOTAKIS. No, it is actually, it is very true, what you are saying. And I think what can we do about this?

Because, like, even in New York City we have an organization called Homes for the Homeless that was running an assisted living facility. They literally kicked out veterans and seniors, from the assisted living facility and then turned around and entered a contract with the city in which they are making \$28 million over the next couple of years to house these migrants instead. I mean, that is horrible. So how do we disincentivize this, or how do we hold these municipalities accountable that are actually doing it?

Mr. WALTER. Well, that is certainly a tall order. I mean, in the end, it is the border crisis itself that is the greatest single driver of this.

Ms. MALLIOTAKIS. That is right. So President Biden should just do his job and secure the border, or Chuck Schumer should take up our Border Security Act. I completely agree with you. It would be nice if the Senate did something over there.

I yield back.

Chairman SCHWEIKERT. Thanks, Ms. Malliotakis.

Mr. Smucker.

Mr. SMUCKER. Thank you, Mr. Chairman.

A few weeks ago, this subcommittee held a hearing on the use of 501(c)(3) tax structures by universities, and how foreign influence has been used to, in some cases, promote anti-Semitism on our college campuses. And a key takeaway from that hearing was the need for transparency. And I would like to build on what we learned on that day, and touch on how foreign money is also perhaps influencing journalism, and how U.S. citizens receive their news and information.

All of us here are aware of the influence that media and news organizations have on public opinion, and we are learning that foreign money is permeating journalism sources, as well, perhaps being leveraged to spread patently false and biased information, as well as encourage anti-Semitism and anti-Americanism.

We are also aware of how foreign governments have used the media to sow distrust, discord, creating doubt in national institutions and in each other. An example, Qatar is a prime example of a country that, not always aligned with U.S. values, leveraging its ability to mask money to exert influence.

Qatar funds the Al Jazeera Media network, which posts blatant lies about Israel's efforts to root out Hamas terrorists after the horrific attacks on October 7. And they, Al Jazeera, recently stood up a new entity called AJ+, which leverages apps such as TikTok to reach young viewers and spread not only biased disinformation, but also dangerous lies about Israel and propaganda in support of Hamas. Some of these videos include the celebration of radical criminals occupying the U.S. military ship attempting to deliver military arms and aid to Israel, as well as promoting divestment from Israel and Israeli companies.

In 2020 the DoJ asked AJ+ to register as a foreign agent under the Foreign Agents Registration Act due to their funding from the Qatari Government, and as of today that has not yet occurred. They haven't registered.

And just by way of comparison, Al Jazeera Media retains 136 press credentials for the House gallery, while The New York Times only retains 86 such passes.

We have heard today about the Arabella Advisors Group, and how they use their complicated organizational structure to peddle foreign dollars into our electoral system. Arabella Advisors, through its new venture fund, has also influenced U.S. media by funneling money to stand up new media websites such as the Capital Journal in Ohio; Courier Newsroom, which has established new sites across a variety of key presidential battleground states, including Arizona, Virginia, Wisconsin, Michigan, and Pennsylvania.

I think transparency is needed into understanding these foreign sources and how they are funding these entities. So maybe to Mr. Walter, Mr. Whitson, should we be concerned about this?

And we are—obviously, we want to protect First Amendment principles. A free press is absolutely critical. But I think so is transparency into, you know, who is funding our journalism and our news sources. I would like to get your thoughts on that. Is this an appropriate concern?

Mr. WALTER. Thank you for your question, and especially for your concern about the crisis of anti-Semitism in America today, which is wrapped up in exactly what you are talking about.

I spoke earlier about the possibility of adjusting the Form 990 of the IRS so that fiscally sponsored projects would have to be reported more clearly. Some of those Arabella efforts you were talking about are fiscally sponsored projects that are completely opaque to the public and to you for oversight.

I would also add that it is important to recognize that, I was talking about Mr. Wyss's work with Arabella. Well, I quoted The New York Times, which has done actually some very good reporting on what Wyss and Arabella have done. And one of the things that spurred them was that they managed to uncover it only because of WikiLeaks, a huge effort by Wyss, funded by Wyss, carried out by Arabella to have a whole hive of fake news sites around the—

Mr. SMUCKER. Thank you.

Mr. Whitson, anything to add here? Any suggestions?

Mr. WHITSON. Nothing to add, other than I share your concern about trying to find a solution to this problem and then causing an even bigger problem.

And so I think one thing, and I am sure you would agree, is just more speech is better. And so, if there are other outlets that are giving other sides of the information, is the Federal Government doing anything to make it harder? Are the Federal agencies going after Twitter and cutting off a source of information that gives people an alternate view?

So those kinds of things, that would be the better way to attack this, I think, than—or, you know, maybe so.

Mr. SMUCKER. Thank you, and I am out of time.

Thank you, Mr. Chairman.

Chairman SCHWEIKERT. Thank you, Mr. Smucker.

Chairman's prerogative, I want to make sure I listened carefully, because it was one of the original points, particularly around the opening. So, Professor, can you play a game with me for a second?

Professor, congratulations. You are a billionaire. Yay. And you decide to take a substantial portion of your wealth and give it to a 501(c)(3). You get a tax deduction, yes? If it is a non-profit—

Mr. HACKNEY. It is complex, in terms of how much you can get, because it depends on how much income you have.

Chairman SCHWEIKERT. No, no, but—

Mr. HACKNEY. You will get a deduction, right.

Chairman SCHWEIKERT. You just—yes.

Mr. HACKNEY. A deduction.

Chairman SCHWEIKERT. Yes. And that (c)(3) could actually take some of that largesse and give it to (c)(4).

Mr. HACKNEY. It depends if it is a private foundation or not. That creates some challenges with that.

Chairman SCHWEIKERT. Yes, but if they were structured—and that is—they could use that (c)(3) money to cover all the expenses within that (c)(4), and maybe certain communication projects and voter education, maybe even voter registration. And the (c)(4) then could—because money is quite fungible, as, you know, in the Ways and Means Committee, that (c)(4) could also make direct contributions to a super PAC, as we call them.

Mr. HACKNEY. The (c)(4) could be making that. We could not use (c)(3) money to accomplish that purpose, so you would have to be accounting for that explicitly.

Chairman SCHWEIKERT. Yes, but—

Mr. HACKNEY. But the (c)(4) potentially can give money to a super PAC, as well.

Chairman SCHWEIKERT. Okay. I appreciate that. I understand there is a number of—we are concerned about foreign money, which is, just by policy, is not supposed to be in our elections.

The other concern I have is also there had been a principle that in elections it is after-tax money, it is not pre-tax money. And if this is a way to drive resources, particularly those with, congratulations, you being a billionaire now, and trying to understand that, and is it something we would identify if we fixed the 990 forms, or is there something that is much more complex?

Particularly as we get ready to do more tax policy, we have the debates amongst ourselves on the tax gap, but also the stunning amounts of resources now that are moving into our politics and trying to understand why. You know, what is the ultimate incentive when a medium-sized state like mine has a couple-hundred-million-dollar, you know, U.S. Senate races and those things?

So we are not going to solve it here today, but your participation is truly appreciated because we are trying to get our heads around both what are the incentives, have we created gaps in our intention in the statutes, and how do we fix it?

The last thing I will also say, if any of you have any brilliant ideas in your drafting of if you were ever to do a more universal 990, what it would look like, because that has been one of our collection projects this year.

And with that, let's actually call ourselves to, oh, Mr. Davis, you snuck in. All right, get close to the microphone. I am going to give Mr. Davis five minutes.

Thank you for joining us, Mr. Davis, you are up.

Mr. DAVIS. Well, thank you. Even though I am not a member of this committee, I find the subject matter very interesting, and I had a question or two that I wanted to explore. Let me thank all of you for your expertise and the information that you have been sharing.

Professor Hackney, let me just begin. I am proud to co-lead the Charitable Act with Representatives Blake Moore, Chris Pappas, and Michelle Steel that would create an above-the-line charitable deduction.

And charitable giving is at the core of our American values. Although our tax code rewards charitable giving by itemizers, it leaves out the vast majority of taxpayers who do not itemize. We know that charitable giving failed in 2022, the largest year-over-year decline since tracking started. Yet we know that gifts increased when the temporary above-the-line charitable deduction existed in 2020 and 2021.

Could you talk a little bit about how an above-the-line charitable deduction can help both non-itemizers and the charitable community, which creates a, I think, great opportunity for utilization of our tax system?

Mr. HACKNEY. Absolutely, Representative Davis. Thanks for the question.

Currently, some data a couple of years ago were suggesting that, as a result of the change in the 2017 Tax Act that significantly increased the standard deduction—up to 24,000, and it is around 27,000 this year—most people cannot itemize, and cannot deduct charitable contributions. Maybe nine percent. I haven't seen good data recently, but it is a very small minority of people. It is mainly very high-income individuals that are able to take this charitable contribution deduction. That has a problematic aspect, I think, on our charitable sector, because it is driven by high-income individuals, rather than everybody else.

So I like the idea of expanding it to a wider range of audiences to encourage more giving. Currently, giving is not encouraged for most people, and you see that in the numbers. Data are down for non-profits, lots going to donor-advised funds, but it is coming from very wealthy individuals, rather than a broad democracy-enhancing charitable sector. So I think this would improve things for the non-profit sector by bringing more dollars in and improve the way they think about what they are doing to think more about the American people in a broad sense.

I am very happy with the charitable sector in general, but I think having a more democracy aspect to it would be an improvement.

Mr. DAVIS. Well, thank you very much for that.

And Mr. Chairman, I don't have any further questions, but let me thank you again, and also ask unanimous consent to submit for the record a number of letters of charitable organizations advocating for this to become reality.

Chairman SCHWEIKERT. So ordered.

[The information follows:]



November 28, 2023

The Honorable Jason Smith
Chairman
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ron Wyden
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
H1129 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Passage of the Charitable Act (H.R. 3435, S. 566)

Dear Chairman Smith, Chairman Wyden, Ranking Member Neal, and Ranking Member Crapo:

Today is Giving Tuesday. In recognition of this date, the Charitable Giving Coalition (CGC), a diverse group representing thousands of charitable and faith-based organizations across the country, writes to you in support of the Charitable Act (H.R. 3435, S. 566), bipartisan legislation that would restore and expand the charitable deduction for non-itemizing taxpayers, also known as the universal charitable deduction.

Giving Tuesday was created in 2012 as a simple idea: a day to encourage people to do good and make giving more central in daily life. Ten years later, it has since become a network of local leaders in over 80 countries as a global movement to reimagine a world built upon shared humanity and radical generosity. In 2022, an estimated \$3.1 billion was donated in twenty-four hours in the U.S. alone, a 15% percent increase over the prior year and a 25 percent increase since 2020. This is the latest example of America's long culture of giving to benefit others.

However, this American tradition is at risk. Currently, 88 percent of charitable giving is provided by 13 percent of donors. The bipartisan Charitable Act would encourage more giving from middle-income and lower-income families that are not incentivized to give through the charitable deduction since they do not itemize.

In 2022, charitable giving fell to \$499 billion, a 10.5 percent inflation-adjusted decline (a 3.4 percent decline in current dollars) and the largest year-over-year decline in total giving since Giving USA began tracking it in 1956. While all categories of charitable giving – individual, foundation, bequest, and corporate – experienced declines after adjusting for inflation, individual giving had the largest drop of 13.4 percent.

Data from this year signals this troubling downturn could worsen, as the Association of Fundraising Professionals' Fundraising Effectiveness Project found declines in both charitable giving (.7 percent) and the number of donors (3.8 percent) in the first quarter of 2023 compared to the first quarter of 2022.

This alarming data, coupled with the steady decline in the percentage of Americans giving to charity from two-thirds of households in 2000 to just less than half in 2018, according to the Indiana University Lilly Family School of Philanthropy, reinforces the need for legislation like the Charitable Act to help reverse these trends and drive more dollars to the nonprofits serving our communities across the country.

Giving trends from 2020 and 2021, when the temporary non-itemizer charitable deduction was in place, indicate the deduction works. According to the Fundraising Effectiveness Project, charitable gifts of \$300 - the cap of the temporary deduction in 2020 - increased by 28 percent on the last day of the year. Furthermore, interim Internal Revenue Service data for tax year 2021 shows 47 million households used the non-itemizer charitable deduction for donations totaling around \$18 billion. A higher deduction cap, as included in the Charitable Act, would encourage even more charitable giving in communities across the country.

The charitable deduction is sound tax policy. It encourages individuals to give away more money to charity than they otherwise would, as evidenced by a recent Independent Sector poll that found 53 percent of respondents said they would give more to charity if they were able to claim a charitable deduction for it. Unfortunately, the current charitable deduction is only available to those who itemize, allowing only about 10 percent of taxpayers to access it.

Despite declining donations, the sector continues to be called upon to do more. From natural disasters and economic hardship at home to unrest and suffering abroad, America is facing unprecedented challenges that nonprofit services can and do help to address. Congress can boost the sector's capacity to serve communities and help those who need it most by restoring and expanding the universal charitable deduction, which encourages all Americans, regardless of income, to give more to charity.

The bicameral and strongly bipartisan Charitable Act is a step in that direction. If enacted, the bill would restore the non-itemizer charitable deduction and increase the amount taxpayers could deduct to one-third of the standard deduction, approximately \$4,600 for individuals and \$9,200 for joint filers. The legislation would also make gifts to donor-advised funds, which have proven to be nimble in times of crisis, eligible for the universal charitable deduction. We encourage you and your colleagues to renew and expand the non-itemizer universal charitable deduction this year.

Thank you for your leadership and your commitment to America's charitable community.

Sincerely,

Charitable Giving Coalition
(signatories attached)

Alabama

Birmingham Jewish Foundation
 Childcare Resources
 LAD Consulting, LLC
 Martha Christine White Foundation
 Mitchell's Place
 Opera Birmingham
 Parkinson Association of Alabama
 Prattville YMCA
 Ronald McDonald House Charities of
 Alabama Inc

Alaska

AK Child & Family
 Kodiak Public Broadcasting Corporation
 KUAC Public Radio and Television
 Museums Alaska
 The Foraker Group

Arizona

Administration of Resources and Choices
 Agape House of Prescott
 Alliance of Arizona Nonprofits + Arizona
 Grantmakers Forum
 Alzheimer's Research and Prevention
 Foundation
 Axiom Community of Recovery
 Black Canyon Heritage Park
 Chart Work Consulting
 Compass Affordable Housing
 Desert Star Institute for Family Planning Inc
 East Valley Children's Theatre
 Family Promise - Greater Phoenix
 Friends of the Verde River
 Gift Planning Institute
 Heritage Square Foundation
 Hickey Family Foundation
 Homeless ID Project, Inc
 Literacy Connects
 Little Chapel of All Nations, Inc.
 Lutheran Social Services of the Southwest
 Medieval Mayhem Historical Arts
 Foundation
 Museum Association of Arizona
 New Pathways for Youth
 Northbridge College Success Program

Northland Pioneer College Friends & Family
 Inc.
 Old Pueblo Trolley, Inc.
 Phoenix Pride
 Ryan House
 Sojourner Center
 Splinter Art and Community Fund
 Stardust Non-Profit Building Supplies, Inc.
 Tempe Community Council
 The Hearth Foundation
 Tubac Center of the Arts
 United Way of Tucson and So. Arizona
 Valley View Community Food Bank

Arkansas

Arkansas Community Foundation

California

Association of Fundraising Professionals,
 Golden Gate Chapter
 California Association of Museums
 California Lutheran Homes Foundation
 Canine Companions
 Catalyst of San Diego & Imperial Counties
 Community Environmental Council
 Community Foundation of the North State
 Ferrari Philanthropic Consultants, Inc.
 Foundation for Santa Barbara City College /
 SBCC Foundation
 Impact Fund
 Jesus Film Project
 Jewish Family Service Los Angeles
 KVIE
 Loma Linda Academy
 Luther Burbank Center for the Arts
 Medical Ambassadors International
 Mercy For Animals, Inc.
 MOXIE Theatre
 Pacific Locomotive Association dba Niles
 Canyon Railway
 Partners in Animal Welfare
 Plant With Purpose
 Rady Children's Hospital
 Rebuilding Together Peninsula
 Roosters Foundation of Orange County
 Save the Shores

Segerstrom Center for the Arts
 SFMOMA
 SLO Food Bank
 Steen Fundraising Services
 Sunday Friends Foundation
 Team Rubicon
 United Way of California
 University of California, Los Angeles
 Variety International
 VolunteerMatch

Colorado

Association of Fundraising Professionals -
 Colorado Chapter
 Citygate Network
 Colorado Historical Foundation
 Colorado-Wyoming Association of Museums
 Community Shares of Colorado
 Compassion International
 Courtney Johnson Philanthropy Advisors
 Davis Phinney Foundation
 Engineering Ministries International
 Independence Institute
 Parkinson Association of the Rockies
 Philanthropy Colorado
 Pikes Peak United Way
 Project I See You
 Reclaiming Hope
 Splendid Fundraising LLC
 The Navigators

Connecticut

Association of Fundraising Professionals,
 Connecticut Chapter
 CCARC Inc.
 CT Community Nonprofit Alliance
 G Marc & Associates, LLC
 Goodspeed Musicals
 University of New Haven

Delaware

Brandywine Village Civic Association
 CHILD, Inc.
 Delaware Alliance for Nonprofit
 Advancement
 Family Promise of Southern Delaware

Fostering Wishes Foundation
 Lighthouse for Broken Wings
 Literacy Delaware
 Wilmington Alliance
 YWCA Delaware

District of Columbia

American Red Cross
 Americans for the Arts
 Association of Christian Schools
 International
 Association of Fundraising Professionals,
 Washington, DC, area chapter
 Association of National Advertisers -
 Nonprofit Federation
 Ayuda
 Boys and Girls Clubs of America
 Calloway & Company
 CCCU - Council for Christian Colleges &
 Universities
 Coalition of State Museum Associations
 Council for Advancement and Support of
 Education
 Council on Foundations
 Dance/USA
 DC Youth Orchestra Program
 Fair Chance
 Faith & Giving
 Hemophilia Federation of America
 Independent Sector
 KABOOM!
 National Alliance for Public Charter Schools
 National Association of College and
 University Business Officers
 National Association of Evangelicals
 National Community Action Partnership
 National Council of Nonprofits
 National Health Council
 PEAK Grantmaking
 Quinn Marketing
 Social Current
 Special Olympics International
 The Arc of the United States
 The Nonprofit Alliance
 The Philanthropy Roundtable
 United Philanthropy Forum

YWCA USA

Florida

Advocacy Network on Disabilities
 Allegany Franciscan Ministries
 Association of Fundraising Professionals
 Indian River Chapter
 Association of Fundraising Professionals,
 Miami Chapter
 Big Brothers Big Sisters of America
 BKVN Consulting, Inc
 Cinematique of Daytona
 CITA Rescue Mission
 Community Foundation of Sarasota County
 Council on Aging of Martin County
 Cross Catholic Outreach
 Endow America Network Foundation
 Florida Conference of SDA
 Florida Philanthropic Network
 Heart of Florida United Way
 Hibiscus Children's Center
 Planned Giving Interactive
 Side Project Inc
 Spirit Love and Kindness for Children
 Families in Need Inc.

Georgia

Association of Fundraising Professionals,
 Greater Atlanta Chapter
 Camp Rock of Georgia
 Communities in Schools of Georgia
 Community Foundation for the Central
 Savannah River Area
 Community Foundation of West Georgia
 Corporate Volunteer Council of Atlanta
 Cousins Foundation
 Denmont Consulting
 Georgians For The Arts
 Girl Scouts of Greater Atlanta
 Habitat for Humanity International
 J. Bulow Campbell Foundation
 Judson Advisory Group LLC
 MINT
 North Georgia Community Foundation
 Philanthropy Southeast
 Pisgah Consulting

South Arts

The Fraser-Parker Foundation
 The Newland Family Foundation, Inc.
 United Way of the Chattahoochee Valley

Hawaii

Community Impact Advisors
 Ku'ikahi Mediation Center

Idaho

Boise Art Museum
 Henry's Fork Foundation
 Idaho Nonprofit Center
 Interlink Volunteer Caregivers
 NewWest Community Capital
 Palouse Land Trust
 The Idaho Foodbank
 Valley Mission

Illinois

6018 North
 Access Contemporary Music
 Albany Park Theatre Project
 American Academy of Pediatrics
 Arts of Life
 ArtsPartners of Central Illinois
 Batavia United Way
 Brushwood Center at Ryerson Woods
 Chapelstreet Church
 Chicago Commons
 Chicago Human Rhythm Project
 Chicago Humanities Festival
 College Bound Opportunities
 Community Foundation of Grundy County
 Disability Resource Center
 Dream Center Peoria
 Edwardsville Arts Center
 EveryLibrary Institute NFP
 Family Focus
 Farmworker and Landscaper Advocacy
 Project-FLAP
 First Love International Ministries
 Forefront (IL)
 HandsOn Suburban Chicago
 Heart of Illinois Youth for Christ
 Hyde Park Jazz Festival

ILCC

Illinois Coalition Against Domestic Violence
 Illinois Collaboration on Youth
 Illinois Dance Education Organization
 Illinois Partners for Human Services
 Illinois State Alliance for YMCAs
 Illinois Valley Center for Independent Living
 Jewish Federation of Chicago
 Joel Hall Dancers & Center
 John G. Shedd Aquarium
 Kartemquin Educational Films
 Lifeline Theatre
 Maywood Fine Arts Association
 McKendree University
 Meyer Partners, LLC
 Midwest Food Bank, NFP
 Momena
 MorningStar Mission
 Peoria Rescue Ministries
 Porchlight Music Theatre
 Progress Center for Independent Living
 Quincy Symphony Orchestra
 Ravinia Festival Association
 Regional Access & Mobilization Project Inc
 Rockford Area Habitat for Humanity
 Rosalind Franklin University
 Safe Passage
 Sankofa Safe Child
 Segundo Ruiz Belvis Cultural Center
 Silk Road Rising
 Society of the Little Flower
 South Size Jazz Coalition
 Springfield Area Arts Council
 Springfield Center for Independent Living
 Ted Rhodes Foundation Inc.
 The Center for Youth and Family Solutions
 The Joffrey Ballet
 Three Brothers Theatre
 United Way of Champaign County
 United Way of Logan County
 United Way of Northwest Illinois Inc.
 Waukegan Arts Council
 West Central Illinois Center for Independent Living
 Winifred Haun & Dancers
 YMCA of the USA

Indiana

Associated Churches of Fort Wayne and Allen County
 Association of Fundraising Professionals - Indiana, Northwest Chapter
 Association of Fundraising Professionals Northeast Indiana Chapter
 Bethel University
 Blue Pen Consulting
 Community Foundation of St. Joseph County
 Eskenazi Museum of Art at Indiana University
 Indiana Alliance on Prenatal Substance Exposure
 Indianapolis Symphony Orchestra
 Kosciusko County Community Foundation
 National Association of Charitable Gift Planners
 Peace Learning Center
 The Honeywell Foundation, Inc.
 United Way of Cass County

Iowa

Catherine McAuley Center
 Des Moines Area Religious Council
 Divine Word College
 EDEN+ Fundraising Consulting
 Habitat for Humanity Quad Cities
 Iowa Council of Foundations
 Northwestern College
 Quad Cities Community Foundation
 United Way Quad Cities
 United Ways of Iowa

Kansas

Council Grove Area Foundation
 Friends of the Kaw
 Graham County Community Foundation
 Hutchinson Community Foundation
 Kansas Alliance for Wetlands & Streams
 Kansas Association of Community Foundations
 Kansas Museums Association
 Kansas State Alliance of YMCAs
 McPherson County Community Foundation

Passageways
 Rice County Community Foundation
 Shared Solution Foundation
 The Fight 4 Light Foundation
 United Way of the Flint Hills

Kentucky

Anne M. Maxfield, LLC
 Appalachian Hospice Care
 Art Center of the Bluegrass
 Ashley | Rountree and Associates
 Beacon House Aftercare
 Beattyville Housing and Development
 Berea ReCreate Arts Haven
 Blue Grass Community Foundation
 CAFCA Cares, Inc.
 Central Louisville Community Ministries
 Christian Family Media Ministries
 Community Foundation of Louisville
 Community Foundation of West Kentucky
 Community Health Clinic, Inc.
 Community Response Coalition of Kentucky
 Inc.
 Early Child Training Center
 Exploited Children's Help Organization
 (ECHO)
 Family & Children's Place
 Family Y of Owensboro/Daviess County, Inc.
 DBA Owensboro Family YMCA
 Felix E. Martin Jr. Foundation
 Fund for the Arts
 GivingThree
 GreenHouse17, Inc.
 Home of the Innocents
 Homeless and Housing Coalition of
 Kentucky
 Hope House Ministries
 International We Serve Foundation, Inc.
 James Graham Brown Foundation
 Jewish Community of Louisville
 Jobs for America's Graduates Kentucky
 Kentuckians for the Arts
 Kentucky CancerLink
 Kentucky Nonprofit Network, Inc.
 Kids Cancer Alliance, Inc.
 KY/WV YMCA State Alliance

Lighthouse Recovery Services Inc
 Lincoln Foundation
 Main Street Prayer Center
 Making A Difference Now
 Maryhurst
 Mental Health America of Kentucky
 Metro United Way
 Mission Behind Bars and Beyond
 Muhl Co Opportunity Center
 My Nose Turns Red Theatre Company
 NAMI Louisville Inc.
 National Parkinsons Institute
 Noble Homes of Kentucky
 Northern Kentucky Children's Law Center,
 Inc.
 Nursing Home Ombudsman Agency of the
 Bluegrass
 Opportunity Center of Owensboro
 Owensboro Family YMCA
 Parks Alliance of Louisville
 People Advocating Recovery
 People's Clinic Foundation, Inc.
 Pikeville Area Family YMCA, Inc.
 Prevent Child Abuse Kentucky
 Ronald McDonald House Charities of
 Kentuckiana
 SOS International
 South Louisville Community Ministries
 St. Matthews Area Ministries
 Stevenson Leadership Strategies, LLC
 Summit Christian University
 The Asclepius Initiative
 The Center for Women and Families, Inc
 The Coalition for the Homeless, Inc.
 The Gathering Place Mission Inc.
 The Gheens Foundation, Inc.
 The United Way of the Pennyrile
 UP for Women and Children
 WATCH, Inc.
 Welcome House, Inc.
 Wellspring, Inc.
 Witnessing History Education Foundation,
 Inc.
 World Missions and Evangelism, Inc.
 YMCA of Greater Louisville (KY)
 ZeroV

Louisiana

David W. Aucoin, CPA, APAC
 Early Learning Focus, Inc.
 Fablanthropy
 Greater New Orleans Foundation
 Jefferson Community Foundation
 Louisiana Association of United Ways
 Morning Star Rising Inc DBA Woman's New
 Life Clinic
 United Way of Northwest Louisiana

Maine

Americans Who Tell the Truth
 ArtVan
 Bowdoinham Food Pantry
 Central Main Area Agency on Aging dba
 Spectrum Generations
 Dark Sky Maine
 Dempsey Centers for Quality Cancer Care
 For Deeper Learning
 Furniture Friends
 Goodwill NNE
 JM Innovates, LLC
 Main Street Skowhegan
 Maine Association of Nonprofits
 Maine GearShare
 Maine Senior Games
 Maine Writers & Publishers Alliance
 Mid Coast Hunger Prevention Program
 Midcoast Symphony Orchestra
 New England Frontier Camp
 Oasis Free Clinic
 Opera Maine
 Rett's Roost
 Riding To The Top Therapeutic Riding Ctr
 RSC Consulting
 Ruth's Reusable Resources
 Southwest Harbor Public Library
 Spurwink
 TEMPOart
 The Dempsey Center
 United Way of Kennebec Valley
 United Way of Southern Maine
 Waterfall Arts
 York Public Library Association

Maryland

Adventists Development & Relief Agency
 AFP Western MD
 Anne Arundel County Literacy Council
 Apra Maryland
 Disabled Children's Fund
 Friends & Foundations of HCLS
 Goodwill Industries International
 Maryland Coalition of Families
 Maryland Nonprofits
 Maryland Philanthropy Network
 Melwood
 Public Justice Center
 Saltzberg Consulting
 Seventh-Day Adventist Church - North
 American Division
 Star Community
 The Religious Coalition for Emergency
 Human Needs
 The Sheridan Group
 Youth Sports Collaborative Network

Massachusetts

Alliance of Massachusetts YMCAs
 Bunker Hill Community College Foundation
 College of the Holy Cross
 Jacob's Pillow Dance Festival
 Making Tomorrow
 Massachusetts Nonprofit Network
 New England Foundation for the Arts
 Philanthropy Massachusetts
 Shelburne Falls Trolley Museum, Inc.

Michigan

Accord Network
 Adrian Dominican Sisters
 Ann Arbor Hands-On Museum
 Ann Arbor Street Art Fair
 Anne Arbor Symphony Orchestra
 Artrain, Inc.
 Barry County Community Foundation
 Bethany Christian Services
 Chaldean American Ladies of Charity
 Child and Family Services of Northwestern
 Michigan

Christ Child Society of Detroit
 Community Foundation of Marquette County
 Council of Michigan Foundations
 Creative Washtenaw
 D.A. Blodgett - St. John's
 Emerson School
 Grand Traverse Area Community Living
 Management Corp DBA: BrickWays
 Grand Traverse Regional Community
 Foundation
 Greenville Area Community Foundation
 Habitat for Humanity of Ionia County
 Have Mercy
 Highfields, Inc.
 Historical Society of Michigan
 Ionia Montcalm Secure and Friendly
 Environment Child Advocacy Center
 Jail and Outreach Ministry
 Kalamazoo Loaves & Fishes
 Looking At The Whole Picture Foundation
 Mel Trotter Ministries
 Mercy Education Project
 Methodist Children's Home Society
 Michigan Transit Museum
 Neutral Zone
 OOWS
 Plowshares Theatre Company
 Public Libraries of Saginaw
 Rescue Ministries of Mid Michigan
 State Street District
 The Children's Center
 The Henry Ford
 United Way of Montcalm - Ionia Counties
 Western Oakland Meals on Wheels
 Where Individuals Nurtured Gain Structure
 Support Strength

Minnesota

Children's Minnesota
 Duluth Harbor Rescue Mission
 Elder Network
 Engage Winona
 EVOLVE Adoption & Family Services
 Great River Shakespeare Festival
 Hennepin Healthcare Foundation
 Minnesota Conservatory for the Arts

Minnesota Council of Nonprofits
 Minnesota Council on Foundations
 Minnesota State University, Mankato
 Foundation
 Morrison County Historical Society
 National Ataxia Foundation
 Ready Set School
 The Reading Center / Dyslexia Institute of
 MN
 VINE Faith in Action
 WACOSA
 Winona Art Center
 Winona Community Foundation
 YMCA of the North

Mississippi

Community Foundation of Northwest
 Mississippi
 Do All Things Children's Circle, Inc.
 Kristina Carlson Philanthropic Counsel LLC
 Mississippi Alliance for Arts Education
 Mississippi Alliance for Nonprofits and
 Philanthropy
 Tupelo Children's Mansion
 United MSD Foundation

Missouri

Child and Family Legal Advocacy
 Concerns of Police Survivors
 Experience Makes the Difference Consulting
 HavenHouse St. Louis
 Logan University
 Mercy Health Foundation
 Outreach International
 Phoenix Family
 Society of St. Vincent de Paul National
 Council of the United States
 VOYCE
 YMCA of Greater Kansas City

Montana

Bitterroot Performing Arts Council
 Montana Community Foundation, Inc.

Nebraska

Food Bank of Lincoln Incorporated

Lincoln Arts
 Nonprofit Association of the Midlands
 Omaha Community Foundation
 State Alliance of Nebraska YMCAs
 United Way of South Central Nebraska
 YMCA of Greater Omaha

Nevada

Feeding Pets of the Homeless
 Food Bank of Northern Nevada
 Nevada Blind Children's Foundation
 Nevada Outdoor School

New Hampshire

Blue Ocean Society for Marine Conservation
 Great Bay Services, Inc.
 NH Center for Nonprofits
 The Foundation for NH Community Colleges
 The Front Door Agency, Inc

New Jersey

Bergen Volunteer Medical Initiative
 Big Brothers Big Sisters of Atlantic & Cape
 May Counties
 Friends of Ortle Beach
 LG Fundfinder Consulting, LLC
 Multicultural Community Services, Inc.
 New Jersey Association of Mental Health and
 Addiction Agencies, Inc.
 New Jersey Association on Correction
 New Jersey Center for Nonprofits
 New Jersey Youth Development Foundation
 NewBridge Services
 Ocean Professional Theatre Company
 Pillar College
 Princeton-Blairstown Center
 Special Strides, Inc.
 Tommy's Cats
 United Way of Central Jersey

New Mexico

Association of Fundraising Professionals-
 New Mexico Chapter
 DalyConsulting
 Food is Free Albuquerque
 La Plaza de Encuentro

New Mexico Thrives
 Rebuilding Together Sandoval County
 United Voices for Newcomer Rights

New York

AFP, NY Hudson-Mohawk
 Agudath Israel of America
 Association of Art Museum Directors
 Association of Fundraising Professionals,
 Western New York Chapter
 Buffalo Zoo
 Charles Settlement House & Community
 Place of Greater Rochester
 Covenant House International
 Dance/NYC
 Dancewave
 Davidoff Hatcher & Citron LLP
 DM Pros
 Friends of the Railroad, Inc.
 Girl Scouts of the USA
 Girls Inc.
 Goodwill of the Finger Lakes
 Humane Society of Rochester & Monroe
 County PCA, Inc
 Huntington Arts Council, Inc.
 JDFR
 League of American Orchestras
 Mark Morris Dance Group
 New York Council of Nonprofits, Inc.
 Niagara Gospel Mission
 Nonprofit Finance Fund
 NY Funders Alliance
 OPERA America
 Parkinson's Foundation
 The Book Fairies, Inc.
 The Child Center of NY
 The Jewish Federations of North America
 The Michael J. Fox Foundation for
 Parkinson's Research
 Theatre Communications Group
 Union of Orthodox Jewish Congregations of
 America
 United Way of Buffalo & Erie County
 United Way of Northern Chautauqua County
 Wood Library Association

North Carolina

a/perture cinema
 Alamance Community College Foundation
 Albemarle Hopeline, Inc.
 Alliance of Disability Advocates
 American Children's Home
 Area Christians Together in Service
 Artgivers Co
 Asheville Area Habitat for Humanity
 Association of Fundraising Professionals
 Triangle (North Carolina)
 Aziz & Gwen Sancar Foundation
 Belmont Trolley Inc.
 Big Brothers Big Sisters of Western North
 Carolina
 Big Brothers Big Sisters of the Central
 Piedmont
 Bleeding Disorders Foundation of North
 Carolina
 Bridge to Turkiye
 Burke County United Way
 Canine for Service
 Caring Services Inc
 Charlotte Ballet
 Charlotte Wine & Food Weekend
 Carolina Pro Musica
 Children's Homes of Cleveland County
 College Pathways of the Triad
 Community Housing Coalition of Madison
 County
 Community Partnerships, Inc.
 Compass Center
 Conservation Trust for NC
 COR Consulting
 Council on Aging of Buncombe County
 Democracy North Carolina
 Disability Rights & Resources
 Disability Rights North Carolina
 Dispute Settlement Center, Inc.
 Eagle's Wings Food Pantry
 Echo System
 Erik J. Daubert, MBA, ACFRE
 Family Care Center Of Catawba
 Family Service of the Piedmont
 Farmington Community Association, Inc.
 Fayetteville Animal Protection Society
 Four Square Inc.
 Friends of the WNC Nature Center
 HandsOn Northwest North Carolina
 HDH Advancement Group, LLC
 Historic Rosedale Foundation
 Home Sweet Hope
 Hope Center
 Independent Animal Rescue
 International Society on Thrombosis and
 Haemostasis
 John Rex Endowment
 Keep Durham Beautiful
 Kids Making It
 KinderMission Foundation
 League of Women Voters of Wake County
 North Carolina
 Life Enrichment Center of Cleveland County,
 Inc.
 Life Experiences, Inc.
 Lutheran Services Carolinas
 Meals on Wheels Wake County
 Mimosa Christian Counseling Center
 Musical Instruments for Children, Inc.
 Mustard Seed Community Health
 Next Ascent LLC
 North Carolina Alliance of YMCAs, Inc.
 North Carolina Center for Nonprofits
 North Carolina Community Health Worker
 Association
 Oak City Cares, Inc.
 OnFire Nonprofit Consulting
 Open Arms Community, Inc.
 Operation Xcel
 Outer Banks Relief Foundation
 Parkinsons Association of the Carolinas
 Passage Home Inc
 paws4people, Inc.
 Penland School of Craft
 People That Care, Inc.
 Pivot Ministry, Inc.
 Polk County Community Foundation
 Possumwood Acres Wildlife Sanctuary
 Pro Bono Counseling Network
 Promising Pages
 Psychoanalytic Center of the Carolinas
 Quilt Trails of the Tar & Roanoke Rivers

Reintegration Support Network, Inc.
 Religious Community Services
 Rufty-Holmes Senior Center
 Safe Harbor Helpline
 Samara's Village
 Samaritan's Purse
 Second Harvest Food Bank of Northwest
 North Carolina
 Smart Start of Mecklenburg County
 Special Olympics of North Carolina
 The Arts Council of Wilson, Inc.
 The Carousel Center
 The Community Foundation of Western
 North Carolina
 The Epiphany School of Global Studies
 The Farmington Community Association,
 Inc.
 The Hope Center at Pullen
 Toxic Free North Carolina
 Union County Education Foundation
 United Way of Alamance County, NC Inc.
 United Way of Lee County
 United Way of North Carolina
 Vernon Center for Early Learning
 Water Well Trust
 Welcome Home Angel
 Wilson Arts
 Winston-Salem Foundation
 YMCA Greensboro

North Dakota

Fargo-Moorhead Area Foundation
 State Alliance of North Dakota YMCAs

Ohio

American Legacy Theatre
 Association of Fundraising Professionals
 Mahoning and Shenango Valleys
 Cincinnati Art Museum
 Community Foundation of the Mahoning
 Valley
 Dominican Sisters of Peace
 Flat Rock Homes
 Goettler Associates, Inc.
 Greater Toledo Community Foundation
 Ignatian Solidarity Network

Jackson Bear Hugs
 Maumee Valley Habitat for Humanity
 Ohio Museums Association
 Philanthropy Ohio
 Refuge of Hope Ministries
 Sustainable Medical Missions
 The Cleveland Museum of Natural
 HistoryArt
 The Roberto Ocasio Foundation
 United Way of the Dayton Area
 Wilmington College
 YMCA of Greater Cincinnati

Oklahoma

Camp Fire Green Country, Inc.
 Communities Foundation of Oklahoma
 First Americans Museum
 Oklahoma Alliance of YMCAs
 Oklahoma Center for Nonprofits
 Oklahoma Museums Association
 Survivor Resource Network

Oregon

Artists Repertory Theatre
 Clatsop Community College Foundation
 Compassion First
 Crown Point Country Historical Society
 Cultural Advocacy Coalition of Oregon
 Pacific University
 Portland Art Museum
 Portland Opera

Pennsylvania

100,000 Friends of Pennsylvania
 1715 Fleet Society
 Aaron's Acres
 Achieva
 Adelphio
 Allegheny Valley Association of Churches,
 Inc.
 American INSIGHT
 Annville Free Library
 Association of Fundraising Professionals
 Western PA Chapter
 Aurora Philanthropic Consulting
 Awaken Pittsburgh

Awbury Arboretum
 Berks Community Television
 Berks Connections Pretrial Services
 Books Through Bars
 Brighter Days Inc.
 Carbon County Community Foundation
 Cheltenham Township Library System
 Children's Aid Society in Clearfield County
 Coalition to Shelter and Support the Homeless
 Community Action Association of Pennsylvania
 Community Action Partnership of Lancaster County
 Community College of Allegheny County Educational Foundation
 Community Health and Gardens Inc.
 Community Library Association
 Crawford Heritage Community Foundation
 Crescendo Phoenixville
 Delaware County Firemen's Association
 Delaware County Victim Assistance Center
 Edinboro University Foundation
 Foster Love Project
 Girard College
 Greater Scranton YMCA
 Highland Cemetery Company
 Historical Society of Pennsylvania
 Horses with Hope, Inc.
 Immerse International
 Individual Abilities in Motion
 J. Alton Consulting
 Keystone Opportunity Center
 Keystone SMILES Community Learning Center Inc
 KYL Dancers Inc.
 Lancaster Science Factory
 Lycoming County United Way
 Mennonite Central Committee U.S.
 Morningstar Living Foundation
 MW Strategies LLC
 NAMI Butler County PA
 NAMI Keystone Pennsylvania
 National Giving Alliance
 National Philanthropic Trust
 National Scenic Visitors Center
 NLArts
 North City Congress
 OrgSpring
 Owen Law Group, LLC
 PA Council of Children, Youth & Family Services
 Pennsylvania Association of Nonprofit Organizations
 Pennsylvania Congress of Parents and Teacher Association
 Pennsylvania Council of Children, Youth & Family Services
 Pennsylvania Fire & Emergency Services Institute
 Pennsylvania Recreation and Park Society
 Pennypack Farm Education Center for Sustainable Food Systems
 Philadelphia Schools of Psychoanalysis
 Philly House (formerly Sunday Breakfast Rescue Mission)
 Planned Giving Success
 PKMASP - Kidz Zone
 Pocono Mountains United Way
 Power Packs Project
 Prince Charming's Circle of Friends
 Productive Fundraising
 Rachel Kohl Community Library
 Senior Adults for Greater Education
 Setebaid Services, Inc.
 Sights for Hope
 St. Paul's
 Stewartstown Area Senior Center
 Susquehanna Valley CASA - Voice for Children
 The Bridge of the Penn-York Valley Churches
 The Children's Home of Reading
 The Learning Lamp
 TLW Strategy
 TriCounty Community Network, Inc.
 Turning Points for Children Inc.
 United Way of Chester County
 Ursuline Support Services
 Variety the Children's Charity of the Delaware Valley
 Via of the Lehigh Valley

Village Improvement Association of
Doylestown
Vision Resources of Central Pennsylvania
W.B Konkle Memorial Library
Warren Library Association
Whosoever Gospel Mission and Rescue
Home Association
William Jeanes Memorial Library
Women's Resources of Monroe County
Workplace Leadership Solutions

Rhode Island

Girls on the Run Rhode Island
Grantmakers Council of Rhode Island
MENTOR RI
New Urban Arts
Oasis International
Ocean Community YMCA
Partners in Philanthropy, LLC
Rhode Island Chapter of the Association for
Fundraising Professionals
Southside Community Land Trust
United Way of Rhode Island

South Carolina

Central Carolina Community Foundation
Children's Trust of South Carolina
Coastal Community Foundation of SC
Fact Forward
HALOS
Lexington Medical Center Foundation
Vital Connections of the Midlands Inc
Waccamaw Community Foundation
Wofford College

South Dakota

Lutheran Planned Generosity of South
Dakota
South Dakota Nonprofit Network
State Alliance of South Dakota YMCAs

Tennessee

A Step Ahead Foundation
ABR Firm
Agape Child & Family Services
Alcy Ball Community Development

Alpha Omega Veterans Services, Inc.
Alzheimer's and Dementia Services of
Memphis, Inc.
Ambassadors of Memphis, Inc.
Apple Seeds, Inc
ArtsMemphis
Asha's Refuge
Ave Maria Foundation of Memphis, Inc.
Ave Maria Home
Big Mama's House Inc
Boys & Girls Clubs of Greater Memphis
Breast Connect, Inc.
Bridges for the Deaf and Hard of Hearing
Cazateatro Bilingual Theatre Group
Chattanooga Christian Community
Foundation
Chattanooga Technology Council
Circuit Playhouse, Inc.
Coffee County Child Care Center Inc
Columbia Academy
Community Alliance For The Homeless
Crabtree Farms of Chattanooga
Day 7 Inc
Diverse Learners Cooperative
Don't Drive Drowsy Foundation
DreamWeavers Learning Academy
Dress for Success Memphis
Drug Rescue
Dyersburg Army Air Base Memorial
Association, Inc.
East Tennessee State University Foundation
Ethics & Religious Liberty Commission of
the Southern Baptist Convention
Focus on Memphis
Freedom Awaits 901
Germantown Education Foundation
Gestalt Community Schools
Grace House of Memphis
Greenwood Villages Community
Development Corporation
Hananiah House, Inc.
Harris Homeownership Foundation
Hemline, LLC
Heritage Alliance of Northeast Tennessee and
Southwest Virginia
Hero's Home Inc

International Folklore Society Planning Council
 IRIS Orchestra, Inc.
 JOOK
 Kids On The Rise
 Kid's Place A Child Advocacy Center
 Kindred Place
 Knoxville Opera
 Last House on the Block
 Love Doesn't Hurt
 Megan Klein Consulting
 Memphis Area Women's Council
 Memphis Music Initiative
 Memphis Youth Symphony Program
 Metropolitan Inter-Faith Association (MIFA)
 Mid-South Food Bank
 Mid-South Immigration Advocates, Inc
 Momentum Nonprofit Partners
 MoSH Memphis
 My City Rides
 National Foundation for Transplants
 National Ornamental Metal Museum
 Nercher Older Adult Community Resource
 New Ballet Ensemble and School
 New Moon Theatre
 Nonprofit Leadership LLC
 On Location Memphis, Inc.
 Owl's Hill Nature Sanctuary
 Panther Creek Foundation
 Playback Memphis
 Porter-Leath
 Positively Memphis
 Priority Teachers University
 PRIZM Ensemble
 Regional Interfaith Association
 RESPECT The Haven CDC
 Rising Together Foundation
 Sharpe Group
 Shelby Farms Park Conservancy
 Shelby Literacy Center
 Students Tackling Autism Related Syndromes
 Tennessee Cow Rescue
 Tennessee Men's Health Network
 Tennessee Nonprofit Network
 Tennessee Shakespeare Company
 The International Consortium of Young Artists
 The Overton Park Shell
 The Price of Freedom Foundation
 This is Living Ministries
 Thomas W. Briggs Foundation
 Thrive Memphis
 Tivoli Theatre Foundation
 Transit Alliance of Middle Tennessee, Inc.
 Trees Knoxville
 United Way of Greater Chattanooga
 United Way of Greater Knoxville
 United Way of West Tennessee
 United Ways of Tennessee
 Uplift Westwood Community Development Corporation
 Vision Philanthropy Group
 Warren County Home Delivery Meals Inc
 WEE Care Juvenile Success & Community Re-Entry
 Welcome to Memphis
 West Cancer Foundation
 Woman's Exchange of Memphis
 Women's Foundation for a Greater Memphis
 WYXR

Texas
 Amarillo College Foundation
 Amarillo Symphony
 American Heart Association
 Amy Juba, CFRE Nonprofit Consulting
 Another Chance House
 Association of Fundraising Professionals
 Texas Plains Chapter
 Bonterra
 BookSpring
 Dallam Hartley Counties Healthcare Foundation
 DMGroupConsulting
 El Buen Samaritano
 Energy For Mission
 Heal the City Free Clinic
 Higher Education Innovation, LLC
 Knapp Community Care Foundation
 Menninger Clinic
 One Voice Central Texas

OneStar Foundation
 Parkinson Voice Project
 Peak Philanthropy
 Philanthropy Southwest
 Sustainable Food Center
 Texans for the Arts
 Texas A&M University-Kingsville
 Foundation, Inc.
 Texas Association of Museums
 Texas Plains Chapter, Association of
 Fundraising Professionals
 The Nonprofit Council
 The SAFE Alliance
 Trinity Valley School
 Turn Center
 Turner Syndrome Society of the United
 States
 United Way of Greater Houston
 United Way of Metropolitan Dallas
 United Ways of Texas

Utah

Community Foundation of Utah
 Gina Bachauer International Piano
 Foundation
 Mundi Project
 Rescue Mission of Salt Lake
 Utah Cultural Alliance
 Utah Museum of Fine Arts
 Utah Nonprofits Association

Vermont

Common Good VT
 Craft Emergency Relief Fund
 North Branch Nature Center
 Structural Integrity
 United Way of Northwest Vermont /
 Common Good Vermont
 Vermont Community Foundation
 YMCA Alliance of Northern New England

Virginia

AFP Foundation for Philanthropy
 American Alliance of Museums
 Association of Fundraising Professionals
 Catholic Charities USA

Center for Public Justice
 Christian Alliance for Orphans
 Christian Connections for International
 Health
 Evangelical Council for Financial
 Accountability
 IMPACT Philanthropy Partners
 Institutional Religious Freedom Alliance
 Johnathan Cares
 March of Dimes
 Meals on Wheels America
 National Association of Free and Charitable
 Clinics
 NetworkPeninsula
 Safe Routes Partnership
 Smart Beginnings Virginia Peninsula
 Strategy 27, LLC
 Susan Feathers Associates
 The Elmer Back Gifting Center
 The Multiple System Atrophy Coalition
 The Salvation Army
 THRIVE Peninsula, Inc.
 United Way Worldwide
 Virginia Alliance of YMCAs
 Virginia Arts Festival
 Virginia Peninsula Foodbank
 Volunteers of America

Washington

Bainbridge Arts & Crafts
 Bread of Life Mission
 Cascade Connections
 Center for Chronic Illness
 Forward Edge International
 Girl Scouts of Eastern Washington and
 Northern Idaho
 Habitat for Humanity Seattle-King & Kittitas
 Counties
 Inspire Washington
 J.M. Greenfield & Associates
 Lakeside School
 Nonprofit Association of Washington
 Providence
 Seattle University
 Tri-City Union Gospel Mission
 Wenatchee River Institute

Whitman County Humane Society
World Concern
World Vision

West Virginia

Philanthropy WV
Tygart Valley United Way
West Virginia Nonprofit Association

Wisconsin

Adult & Teen Challenge of Western
Wisconsin
Association of Fundraising Professionals,
Upper Mississippi Valley Chapter
Driftless Region Youth Flight, Inc.
Family & Children's Center
Great Rivers United Way, Inc.
Groundswell Conservancy
La Crosse Public Education Foundation
La Crosse Symphony Orchestra
Saint Benedict's Abbey
Saint Lawrence Seminary
Vernon Memorial Healthcare Foundation
Women's Fund of Greater La Crosse, Inc.

Wyoming

Albany County Public Library Foundation
Gillette College Foundation
Northwest College Foundation
Wyoming Nonprofit Network

Chairman SCHWEIKERT. I would like to thank our witnesses for appearing today, and thank you, Mr. Davis, for joining us.

Please be advised that members have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal record of this hearing.

Thank you for joining us. We are adjourned.

[Whereupon, at 3:52 p.m., the subcommittee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

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Congress of the United States
House of Representatives
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January 3, 2023

COMMITTEE ON
WAYS AND MEANS
JOINT ECONOMIC
COMMITTEE

Justin C. Chung
Legislative Attorney
Congressional Research Service
Library of Congress
Washington, D.C. 20540-7210

Dear Mr. Chung:

Please see below for questions for the record following your testimony to the U.S. House Committee on Ways and Means on December 13, 2023.

Q: On page 8 of your written testimony, you indicate that in Tax Year 2020, the "Assets on Form 990s" for 501(c)(3)s was \$5.5 trillion, and for 501(c)(4)s was \$204 billion. Can you please provide any additional details to describe the break down the assets of U.S tax-exempt 501(c)(3)s and 501(c)(4)s?

Please elaborate on your answer to the best of your ability, and feel free to include what sources you use. We appreciate any additional details and information you can provide.

Sincerely,


David Schweikert
Chairman
Subcommittee on Oversight
Committee on Ways and Means

**MEMORANDUM**

January 17, 2024

To: House Committee on Ways and Means, Subcommittee on Oversight
Attention: Chairman David Schweikert

From: Justin C. Chung, Legislative Attorney, jchung@crs.loc.gov, 7-9362

Subject: **Response to Question for the Record**

Chairman Schweikert, Ranking Member Pascrell, and Members of the Subcommittee:

Please find enclosed a response to your January 3, 2024 letter containing questions for the record submitted by Members of the Committee following the December 13, 2023 hearing titled “Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape.” Thank you for the opportunity to respond to these questions. CRS remains available to assist the Committee on this and other matters through testimony, confidential briefings, and written memoranda.

Question Submitted by Chairman David Schweikert

Q: On page 8 of your written testimony, you indicate that in Tax Year 2020, the “Assets on Form 990s” for 501(c)(3)s was \$5.5 trillion, and for 501(c)(4)s was \$204 billion. Can you please provide any additional details to describe the break down [of] the assets of U.S. tax-exempt 501(c)(3)s and 501(c)(4)s?

Please elaborate on your answer to the best of your ability, and feel free to include what sources you use. We appreciate any additional details and information you can provide.

Response

Tax-exempt organizations with a Form 990 filing requirement report total assets on Part I, line 20 of Form 990.¹ A breakdown of assets by type in a tax-exempt organization’s balance sheet is reported in Part X, lines 1–16.²

¹ IRS, Return of Organization Exempt From Income Tax (Form 990), <https://www.irs.gov/pub/irs-pdf/f990.pdf> (last visited Jan. 16, 2024).

² *Id.*

The Internal Revenue Service (IRS) reports asset data collected from the Form 990s.³ This data excludes most organizations with receipts less than \$50,000. In addition, some 501(c)(3)s are not required to file a Form 990, including churches and certain other religious organizations. The data reported by the IRS regarding assets held by Section 501(c)(3) and 501(c)(4) organizations in tax year 2020 is presented in Table 1.

Table 1. Balance Sheet Items in Form 990 Returns of 501(c)(3) and (4) Organizations, Tax Year 2020
[Amounts are in thousands of dollars]

	Internal Revenue Code Section	
	501(c)(3) [1]	501(c)(4)
Total assets	\$ 5,507,404,075	\$ 203,870,247
Cash -- non-interest bearing	217,938,231	6,328,645
Savings and temporary cash investments	350,820,830	20,119,204
Pledges and grants receivable	108,153,770	632,420
Accounts receivable	225,838,346	8,925,850
Receivables from officers, etc.	1,096,078	2,799
Receivables from disqualified persons	1,077,711	13,869
Notes and loans receivables	109,881,243	30,290,407
Inventories for sale or use	33,338,700	161,044
Prepaid expenses and deferred charges	41,117,969	1,432,666
Land, buildings, and equipment (net)	1,259,221,657	11,787,226
Investments in public securities	1,441,840,319	76,419,708
Investments in other securities	1,144,238,477	27,813,899
Program-related investments	111,764,673	13,173,080
Intangible assets	25,608,913	309,438
Other assets	435,467,158	6,459,992

Source: *SOI Tax Stats - Charities & Other Tax-Exempt Organizations Statistics Table 3*, IRS, <https://www.irs.gov/statistics/soi-tax-stats-charities-and-other-tax-exempt-organizations-statistics> (last visited Jan. 16, 2024).

Notes: [1] Excludes private foundations, most churches, and certain other types of religious organizations.

³ *SOI Tax Stats - Charities & Other Tax-Exempt Organizations Statistics Table 3*, IRS, <https://www.irs.gov/statistics/soi-tax-stats-charities-and-other-tax-exempt-organizations-statistics> (last visited Jan. 16, 2024).

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Congress of the United States
House of Representatives
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COMMITTEE ON
WAYS AND MEANS
JOINT ECONOMIC
COMMITTEE

January 3, 2024

Scott Walter
President
Capital Research Center
1513 16th Street, NW
Washington, DC 20036

Dear Mr. Walter:

Please see below for questions for the record following your testimony to the U.S. House Committee on Ways and Means on December 13, 2023.

Q: Do you have any specific suggestions for improving IRS Form 990, especially regarding foreign monies?

Q: Do campaign finance laws prevent foreign money from interfering in our politics?

Q: Are there reasons to be concerned about the foreign activities of American nonprofits?

Q: Is foreign money influencing journalism and how U.S. citizens receive news and information?

Q: There seemed to be disagreement among witnesses and Members about voter registration and mobilization by 501(c)(3) organizations. Do you believe there is cause for concern?

Q: During the hearing, we heard that the IRS controversy over Lois Lerner and the Tax-Exempt Organizations Division was not, in fact, an example of abusive IRS enforcement. Do you agree?

Q: Is Mind the Gap Super PAC still involved with nonprofits, and is that a reason for concern?

Q: Should taxpayers be concerned about 501(c)(3) organizations using taxpayer-funded grants to assist in sending unvetted individuals to communities across the country?

Please elaborate on your answer to the best of your ability, and feel free to include what sources you use. We appreciate any additional details and information you can provide.

Sincerely,



David Schweikert
Chairman
Subcommittee on Oversight
Committee on Ways and Means

Questions for the Record

From Chairman David Schweikert

To Mr. Scott Walter

“Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape”

Subcommittee on Oversight

Committee on Ways and Means

December 13, 2023

Question #1

Do you have any specific suggestions for improving IRS Form 990, especially regarding foreign monies?

Thank you for the question. My colleagues at the Capital Research Center have written extensively on this topic. I would especially recommend Robert Stilson’s article “The Need for Foreign Grant Disclosure by Nonprofits,” which discusses the disturbing case of Neville Singham and his wife, Jodie Evans, and Mr. Stilson’s more general “Suggestions for Improving the Form 990.”¹

Allow me to group our suggestions under the headings of Major Improvements and Technical Tweaks.

¹ Stilson, Robert. “The Need for Foreign Grant Disclosure by Nonprofits,” Capital Research Center, January 9, 2024, <https://capitalresearch.org/article/the-need-for-foreign-grant-disclosure-by-nonprofits/>; Stilson, Robert. “Some Suggestions for Improving the Form 990,” Capital Research Center, March 28, 2022, <https://capitalresearch.org/article/some-suggestions-for-improving-the-form-990/>.

Major Improvements

- Require nonprofits to generally disclose the identities of their foreign grant recipients on Schedule F. Foreign grantees are currently anonymized, with only the geographic region disclosed. The American tax-exempt sector can therefore be used to fund foreign entities whose interests may be aligned with America's geopolitical rivals, with no oversight or transparency. As I said at the hearing, there may sometimes be cases where non-disclosure of grants abroad could be justified by a fear of endangering the recipients, but disclosure should be the general norm.²
- Create a new schedule on the Form 990 where nonprofits are required to list their fiscally sponsored projects. We envision this being fairly simple, requiring only basic information such as (1) project name; (2) top-line budget numbers; (3) date established; and (4) whether it has applied for its own IRS tax-exempt status.³ This is needed because of the growth of fiscally sponsored projects used by politically active networks like the multibillion-dollar network of nonprofits operated by Arabella Advisors, which has bragged that it has created over 500 such entities. Whereas the original idea of fiscally sponsored nonprofits understood this arrangement to be a way for an existing nonprofit to incubate a new group that would eventually spin off as an independent nonprofit, Arabella and others now use this nonprofit form to hide enduring nonprofits. The largest of Arabella's six nonprofits, the New Venture Fund, bragged in 2021 that it "has supported almost 500 projects since its founding and currently hosts more than 130 projects. Our longest-tenured project was founded in 2010, and we have supported six of our projects for more than a decade. We helped to launch more than 15 projects in 2021, and we are on track to launch even more in 2022."⁴

² For more details, see <https://capitalresearch.org/article/require-nonprofits-to-disclose-their-foreign-grantmaking/> and <https://capitalresearch.org/article/the-need-for-foreign-grant-disclosure-by-nonprofits/>.

³ For more details, see <https://capitalresearch.org/article/the-need-for-foreign-grant-disclosure-by-nonprofits/>.

⁴ New Venture Fund, "2021 Impact Report," <https://newventurefund.org/wp-content/uploads/2022/11/NVF-2021-Impact-Report-FINAL2-hi-res.pdf>. For more on Arabella Advisors' network, see "Arabella Advisors," InfluenceWatch, <https://www.influencewatch.org/for-profit/arabella-advisors>.

- Require foundations and nonprofits that make grants specifically earmarked for fiscally sponsored projects to note this in their Form 990 (Schedule I) or Form 990-PF (Part XIV) grant descriptions.
- Reiterate that foundations are required to itemize their investments on Form 990-PF. They are already supposed to do this, but too many foundations report their investments as lump sums by category. One reason, no doubt, for some of this failure to meet their reporting requirements is the blatant hypocrisy of left-wing foundations, who fund advocates of ESG and other schemes that threaten sectors of the American economy, yet the same foundations secretly enrich themselves by investing their own assets in those sectors. As our Robert Stilson has reported, the Ford, Charles Stewart Mott, and Arca foundations are among the major abusers in this area: “In 2020, the Ford Foundation reported holding approximately \$1.11 billion in government obligations, \$230 million in corporate stock, and \$14.8 billion in other investments. The foundation’s required attachments to its Form 990-PF, however, essentially restated these broad categories with little or no elaboration.”⁵

Technical Tweaks

- Include a column in Form 990-PF (filed by private foundations) Part XIV where a grantee’s EIN number must be listed. The Form 990 (filed by public charities) has this in Schedule I—both forms should do it.
- Ensure important attachments to the Form 990 and Form 990-PF are always actually attached to the version of the form released to the public. This is most often a problem when its grants are listed in an attachment, which is missing from the form as posted on the IRS website.

⁵ <https://capitalresearch.org/article/the-private-investments-of-private-foundations-part-1/>.

- Expand highest-paid employee and contractor disclosures. Many nonprofits and foundations have numerous highly paid employees and contractors, but the forms only require listing the top five. This could be expanded to the top 15 or 20, while still maintaining a threshold of a specific dollar figure. Current thresholds are \$50,000 on the Form 990-PF and \$100,000 on the Form 990.

Question #2

Do campaign finance laws prevent foreign money from interfering in our politics?

Campaign finance “reform” laws are largely fraudulent, and one of the strongest pieces of evidence for this fact involves foreign money. Polls show near-universal support across the political spectrum for banning direct and indirect foreign money in elections, and that of course is already existing federal law. Yet the much-ballyhooed McCain-Feingold Act did absolutely nothing to limit the funding of 501(c)(3) groups, which may receive unlimited funds, foreign and domestic.

That should come as no surprise, however, because as John Fund reported in the *Wall Street Journal*, nearly all the money pushing that fraudulent legislation came from eight billionaires with the same last name, *Foundation*. In “Astroturf Politics: How liberal foundations fooled Congress into passing McCain-Feingold,” Fund reported in 2005 that a study by Political MoneyLine “found that of the \$140 million spent to directly promote liberal campaign reform in the last decade, a full \$123 million came from just eight liberal foundations,” including Carnegie, Ford, and George Soros’s Open Society.⁶ Fund quotes a talk given by a former executive of Pew Charitable Trusts, the biggest donor among the foundations at \$40 million. This Pew executive, who oversaw the “reform” effort, confessed after the bill passed that the target of those millions

⁶ John Fund, “Astroturf Politics: How liberal foundations fooled Congress into passing McCain-Feingold,” *Wall Street Journal*, March 21, 2005, <https://www.wsj.com/articles/SB122512338741472357>. This section of my answer borrows from my 2022 testimony before the U.S. Senate Finance Subcommittee on Taxation and IRS Oversight, <https://capitalresearch.org/article/scott-walter-testifies-to-a-senate-finance-subcommittee-on-the-political-activities-of-tax-exempt-entities/>.

was “535 people” in Congress, in whose minds the foundations hoped “to create an impression that a mass movement was afoot.” Pew’s strategist is clear that he aimed to fool you Members of Congress: If, he confesses, you “thought this was a Pew effort, it’d be worthless.” So the conspiracy had “to convey the impression that this was something coming naturally from beyond the Beltway.” Fund concludes there was never grassroots support for campaign finance “reform.” I would add that Pew knew this fact: two months before the bill passed, Pew Research Center polled Americans, asking them to rank 22 issues in order of importance: campaign finance reform came in dead last.⁷

Such reform unwisely squeezes political money out of the parties and other traditional political actors and into tax-exempt groups. As I’ve testified in the Senate Finance Committee,⁸ these so-called reforms are the biggest reason politicized money is pouring into exempt groups of all varieties. I sympathize with those persons across the spectrum who do not like dollars going into politics because they do not trust politicians, and who do not like to see exempt dollars playing a big political role. But the reason for those dollar flows is described well in *The Blueprint*, a book that reports with sympathy on the Democratic takeover of Colorado’s politics in the years after the Bipartisan Campaign Reform Act of 2002 (BCRA). The authors explain how big donors became more important than the traditional party apparatus:

campaign finance reform had completely changed the rules of the game. By limiting the amount of money candidates and political parties could raise and spend, the new law had seriously weakened candidates—and all but killed political parties.⁹

Similarly, the liberal journalist Sasha Issenberg in his 2012 book, *The Victory Lab: The Secret Science of Winning Campaigns*, reports how private foundations like Carnegie escape the campaign finance strictures that throttle political actors who labor under FEC rather than IRS regulation:

⁷ Walter, Scott, “Pew and the Gang Ride Again,” Foundation Watch, April 2011,

<https://capitalresearch.org/article/pew-and-the-gang-ride-again-citizens-free-speech-still-in-danger/>.

⁸ <https://capitalresearch.org/article/scott-walter-testifies-to-a-senate-finance-subcommittee-on-the-political-activities-of-tax-exempt-entities/>.

⁹ Witwer, Rob and Schrager, Adam. *The Blueprint: How the Democrats Won Colorado (and Why Republicans Everywhere Should Care)* (Colorado: Fulcrum Publishing, 2010), 72.

Because the tax code allowed nonprofit organizations to run registration and turnout drives as long as they did not push a particular candidate, organizing “historically disenfranchised” communities (as Carnegie described them) became a backdoor approach to ginning up Democratic votes *outside the campaign finance laws that applied to candidates, parties, and political action committees*.¹⁰

In short, billionaire foundations have pushed campaign finance “reform” into law, weakening the normal actors in politics such as political parties and candidates for office, and strengthening the relative power of these foundations. One especially disturbing case involves the personal foundation of Hansjorg Wyss and its joined-at-the-hip 501(c)(4) Berger Action Fund, who now meddle in politics in aid of the Left to a degree that disturbs even the Left-friendly *New York Times*, as I detailed in my written testimony.¹¹

The case of Hansjorg Wyss is the most prominent and best-known example of this problem involving foreign money, but the model can easily be copied by other foreign actors, including Russian oligarchs, Chinese Communist businessmen, and oil-rich tycoons with backward-looking views on the roles of women and homosexual persons.

Question #3

Are there reasons to be concerned about the foreign activities of American nonprofits?

Yes. My colleague Robert Stilson has documented the danger of nonprofit funds moving from America to nations abroad, against the interests of the United States: “Tax exempt groups located in the United States can be used to bankroll foreign organizations whose interests and

¹⁰ Issenberg, Sasha. *The Victory Lab* (New York: Crown Publishing, 2013), 86. Emphasis added.

¹¹ <https://capitalresearch.org/app/uploads/2023-Walter-Ways-Means-Oversight-Written-Testimony.pdf>.

activities are aligned with those of America’s geopolitical rivals. And most importantly, they can do so without any oversight or scrutiny,” Stilson explains.¹²

The example Stilson examines involves the People’s Support Foundation, a 501(c)(3) private foundation, and the People’s Welfare Association, a 501(c)(4) social welfare organization. While a private foundation may give money to a 501(c)(4), provided the funds are used consistent with the foundation’s charitable purpose, in this case we have the highly unusual situation of a private foundation that is giving almost exclusively to a 501(c)(4), which in turn passes the money to undisclosed foreign recipients.

Stilson adds that the People’s Support Foundation’s president is Jodie Evans, co-founder of the far-left agitation group Code Pink. Her husband, Neville Roy Singham, founded Thoughtworks and used the proceeds from its sale to endow the People’s Support Foundation, which had assets of \$124 million at the end of its 2022 fiscal year.¹³

A 2023 *New York Times* exposé of Singham and Evans reported on their “lavishly funded influence campaign that defends China and pushes its propaganda” via a number of U.S.-based nonprofits, one of which the *Times* identified as the People’s Support Foundation. Singham was working “closely with the Chinese government media machine” and “financing its propaganda worldwide” by using “American nonprofits to push Chinese talking points,” the *Times* reports.¹⁴ The newspaper described Singham’s connections to the Chinese Communist Party and his admiration of Maoism. It also observed that Evans, too, strongly supports China, Stilson notes.

This explains why we have recommended greater disclosure of foreign grants on Schedule of the Form 990 (see Question #1 above, first bullet under “Major Improvements”).

¹² Stilson, Robert. “The Need for Foreign Grant Disclosure by Nonprofits,” Capital Research Center, January 9, 2024. <https://capitalresearch.org/article/the-need-for-foreign-grant-disclosure-by-nonprofits/>.

¹³ <https://projects.propublica.org/nonprofits/organizations/821202926>.

¹⁴ <https://www.nytimes.com/2023/08/05/world/europe/neville-roy-singham-china-propaganda.html>.

Question #4

Is foreign money influencing journalism and how U.S. citizens receive news and information?

Yes. As the *New York Times* has reported:

Among the groups under the umbrella of [Arabella Advisors'] Sixteen Thirty and New Venture is the Hub Project, which was started by Mr. Wyss's philanthropic network in 2015 as a sort of incubator for groups backing Democrats and their causes, as first reported by The Times. It created more than a dozen groups with anodyne-sounding names that planned to spend \$30 million attacking Republican congressional candidates before the 2018 election.¹⁵

In the earlier *New York Times* report, more details on Wyss's Hub Project are provided:

The Hub Project came out of the idea that Democrats should be more effective in conveying their arguments through the news media and directly to voters. Its business plan, a 21-page document prepared for the Wyss Foundation in 2015, recommended that the group "be solely funded by the Wyss Foundation at the outset" and that it would work behind the scenes to "dramatically shift the public debate and policy positions of core decision makers." The plan added that The Hub Project "is not intended to be the public face of campaigns."

The Hub Project is part of an opaque network managed by a Washington consulting firm, Arabella Advisors, that has funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes. The

¹⁵ Vogel, Kenneth P., "Swiss Billionaire Quietly Becomes Influential Force Among Democrats," *New York Times*, May 3, 2021, <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

system of political financing, which often obscures the identities of donors, is known as dark money, and Arabella's network is a leading vehicle for it on the left.¹⁶

Let me reiterate what the *New York Times* reported: "The Hub Project came out of the idea that Democrats should be more effective in conveying their arguments through the news media and directly to voters." In other words, not only is the foreign billionaire Hansjörg Wyss indirectly funding efforts to boost one political party to voters, he is also using his Hub Project to create outlets that American citizens presume are news media but in fact are propaganda sites. I should think this outrage would be deeply troubling to politicians in both parties, given that our nonprofit sector can be weaponized in this way by *any* foreign monied interests.

The business plan for this scheme was prepared by a for-profit, Democratic-aligned public relations firm, Civitas Public Affairs Group, whose website landing page as I write has a simple, large headline: "Winning with Purpose."¹⁷ The word *winning* matters, because in its business plan for Mr. Wyss's 501(c)(3) private foundation, the same word appears in the "advantages" that the secretive Hub Project will bring:

Focus on winning. The hub will be focused on success and making tangible, measurable progress toward shifting public opinion and moving target audiences to action. Its client will be the issues it works on; decisions will be driven by what will achieve progress toward goals, not considerations of movement politics or organizational interests. The hub will not be concerned with credit or public profile, the messenger or organization best suited for a particular task will be asked to take it on (and take credit).¹⁸

The entire 21-page business plan never mentions any variant of the words *election* and *voters*, because the sophisticated public relations firm knows that would be dangerous in a plan

¹⁶ Vogel, Kenneth P., and Robertson, Katie, "Top Bidder for Tribune Newspapers Is an Influential Liberal Donor," *New York Times*, April 17, 2021, <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

¹⁷ <https://www.civitaspublicaffairs.com/>.

¹⁸ For the full Hub Project scheme, see "A Plan for the Development of a Communications Hub Supporting The Wyss Foundation's Core Issue Areas." Civitas, prepared for the Wyss Foundation. February 2015. <https://www.influencewatch.org/app/uploads/2021/04/Wyss-Foundation-Communications-Hub.pdf>.

for a private foundation, but one would be naïve indeed to imagine that “winning” for the Hub Project—and for its foreign billionaire backer—did not, as the *New York Times* reports, include “backing Democrats and their causes,” including electoral victories.

Question #5

There seemed to be disagreement among witnesses and Members about voter registration and mobilization by 501(c)(3) organizations. Do you believe there is cause for concern?

There is grave cause for concern about voter registration and mobilization by 501(c)(3) organizations—both the (c)(3) private foundations and donor-advised fund providers who fund such work, and the (c)(3) public “charities” that carry it out using Democratic Party-aligned microtargeting firms. Capital Research Center has documented multiple problems.

The IRS could not be clearer. In a document on “The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations,” the IRS states:

voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.¹⁹

So not only is the *intention* to aid one political party through voter education or registration forbidden to (c)(3) donors and (c)(3) groups, the IRS also states that laws and regulations forbid a 501(c)(3) entity from having *the effect* of helping a candidate or party. Yet the left side of the political spectrum has been ignoring this for decades.

¹⁹ <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>.

Earlier I quoted the liberal journalist Sasha Issenberg, who observed in a book published in 2012 that the Carnegie private foundation was funding voter registration and turnout drives as “a backdoor approach to ginning up Democratic votes.”²⁰ In the same book, Issenberg observes of the 501(c)(3) “charity” Voter Participation Center, “Even though the group was officially nonpartisan, for tax purposes, there was no secret that the goal of all its efforts was to generate new votes for Democrats.”²¹

Nor is Carnegie alone among private foundations in its support of illicit voter turnout work. Capital Research Center has documented the coordination of voter registration schemes with other foundations by George Soros’s Open Society foundation (OSF). In the DCLeaks archive, a January 2011 memo appears. It is addressed to George Soros; Sherilynn Ifill, the incoming head of his main (c)(3) foundation; and the rest of that foundation’s board. The authors were Andy Stern, then-head of the politically powerful Service Employees International Union and the most frequent outside visitor to Barack Obama’s West Wing, and Deepak Bhargava, then-head of the (c)(3) Center for Community Change. The memo was titled, “New Thinking on 2012 Election and Beyond.” Written at the very beginning of that election cycle, the memo stresses voter registration of “OSF’s priority constituencies,” and “focusing resources in cities and states where OSF issue priorities . . . will be on the ballot or featured prominently in public discourse.”

Another priority includes “experimenting with more collaborative models for *campaign* communications” (emphasis added). The memo urges \$3.5 million in funding to “Win Pre-Determined Substantive Changes in Open Society Priorities that will be Resolved in 2012 City and State Elections,” with a narrow focus on “key places such as California, Maryland, Ohio, and Wisconsin.” The memo explicitly lists similar left-of-center funders who are collaborating on this kind of electoral work in a section entitled, “Currently Projected Voter Engagement Funder Budgets for 2012.” The Ford Foundation is the most generous, with the political operatives hoping for \$20 million; Open Society is next at \$16.3 million; Wellspring Advisors, \$10 million; Carnegie, \$5.6 million; the Bauman Foundation, \$9 million; the Democracy Alliance, a Soros co-

²⁰ Issenberg, Sasha. *The Victory Lab* (New York: Crown Publishing, 2013), 86.

²¹ Issenberg, *The Victory Lab*, 305.

founded donor cabal, \$3.5 million; and a few more sources for a total desired budget of \$84.4 million.²²

More recently, Capital Research Center has documented the powerful and powerfully biased work of the Voter Registration Project (VRP), a 501(c)(3) “charity” that from 2016 to 2021 distributed \$125 million in grants to dozens of state and national activist groups. From 2016 to 2019, VRP only paid for voter registration in eight states: Arizona, Colorado, Florida, Georgia, Ohio, North Carolina, Virginia, and Nevada. In 2020 and 2021, it expanded its funding to the battleground states of Pennsylvania, Michigan, and Wisconsin. Through 2021, it had raised \$193 million and claimed to have registered over 5 million voters. Of that \$193 million in revenues, Capital Research Center has documented that at least \$150 million came from 501(c)(3) sources.²³

VRP’s spending also tells a partisan tale: According to its 2020 Form 990, VRP’s total spending was \$74.9 million, most of which, \$45.6 million, was granted to other groups doing the registration work on the ground. Of the remaining 29.3 million “charitable” dollars it kept for its own work, VRP spent about \$18.7 million, or 64 percent, on its top five vendors—all of whom were Democratic-aligned political firms.²⁴ For example, VRP paid millions to the Outreach Team, GBI Strategies, and Campaign Industries LLC, and these “Beltway bandits” also received millions of dollars for the same kind of work from groups like the Democratic National Committee and the Democratic Senatorial Campaign Committee.²⁵

The Voter Registration Project continues to be active and no doubt hopes to win battleground states for its favored political party in 2024, just as it strongly implies it won them in the 2020 presidential election. Headquartered in Washington, D.C., VRP lists 42 employees on

²² For more on the memo, see Braun, Ken, “Big Left Foundations Fund Biased Barely-Legal Voter Programs,” *Capital Research Center*, June 3, 2021, <https://capitalresearch.org/article/big-left-foundations-fund-biased-barelylegal-voter-programs>.

²³ See Thayer, Parker, “How Charities Secretly Help Win Elections,” Capital Research Center, <https://capitalresearch.org/app/uploads/CRC-Voter-Registration-Report.pdf>. Complete documentation of the 501(c)(3) donations is available at <https://www.influencewatch.org/app/uploads/2023/06/VRP-Network-Donors-2016-to-2021-Sources-Documents.xlsx>.

²⁴ <https://www.influencewatch.org/app/uploads/2021/12/VRP-2020-Form-990-Public-Disclosure-Copy-signed.pdf>.

²⁵ Thayer, “How Charities,” 16.

its Form 990 for 2022.²⁶ The Project also continues to be recommended by top Democratic strategists like the Super PAC Mind the Gap. (See Question 7, *infra*.)

For all the details on this program, see my colleague Parker Thayer’s extensive report. One detail is worth mentioning, in the context of the problem of foreign money: This vast scheme was birthed in 2015, when Molly McUSIC, president of Hansjörg Wyss’s private foundation and of his related 501(c)(4) nonprofit, sent a blueprint for the plan to John Podesta, who was then beginning plans to elect Hillary Clinton to the presidency. The blueprint had been prepared by another Democratic consulting firm, Corridor Partners, which had simply taken a massive voter registration plan designed for non-(c)(3) funding and execution and made edits which they hoped would make it possible for (c)(3) donors and groups to carry the plan out. We have posted online the Word file that shows the edits—really, the camouflages—made for this dubious venture.²⁷

The scheme is objectionable not because voter registration is bad, as some Members seemed to infer, but because the charitable sector cannot legally do such partisan work. Indeed, this partisan work undermines the whole purpose of the charitable sector as most Americans rightly understand it. The nation does not lack for non-(c)(3) donors and groups who can and should be vigorously engaged in registering voters legally.

Meanwhile, as Thayer notes in his report, “there is no conservative equivalent” to the Left’s weaponizing of charities for voter turnout. “At most, a handful of scattered conservative charities spend a fraction of their budget on voter registration or get-out-the-vote efforts, but they don’t attempt anything resembling the sophisticated, centrally controlled, nine-figure-funded, high-tech operations of the VRP network, nor do the largest conservative foundations fund such work. The ‘charitable’ voter registration racket, unlike most types of money in politics, exists on only one side of the aisle.”

²⁶ <https://www.influencewatch.org/app/uploads/2023/12/Voter-Registration-Project-2022-Form-990.pdf>

²⁷ <https://www.influencewatch.org/app/uploads/2022/07/Corridor-Partners-Plan-.pdf>

Question #6

During the hearing, we heard that the IRS controversy over Lois Lerner and the Tax-exempt Organizations Division was not, in fact, an example of abusive IRS enforcement.

Do you agree?

No, Lois Lerner's abuses were clear. First, consider that she staged her own confession, as ABC News reported, by arranging for an ally to ask her a planted question at an American Bar Association (ABA) event where she was scheduled to speak,²⁸ and this was timed to hit the Friday evening news cycle, the best place in the week to diminish public attention. Her confession was also timed to appear just before the Treasury Inspector General for Tax Administration (TIGTA) was to release a damning report on her Division's behavior. No one creates such a ruse if he or she has done nothing wrong. Further, Lerner lied about having planted the question, ABC News reported. She told reporters in a conference call that she had never revealed the IRS's targeting of conservative groups because she had never been asked, and then she added, "Somebody asked me a question today, so I answered it." In fact, ABC later learned, she had called her friend before the ABA meeting, asking the friend to ask a question she had formulated.²⁹

For yet more evidence of the extent of dishonest manipulations by Lerner, consult the record of this very Committee. Democratic Rep. Sander Levin (Mich.) expressed his outrage two days after Lerner's staged confession, at a Ways and Means hearing on May 17, 2013: "A little more than a week ago Lois Lerner was in front of our Oversight Subcommittee. She serves as the director of the Exempt Organization Division, and she has been directly involved in this matter, yet she failed to disclose what she knew to this committee, choosing instead to do so at an ABA conference two days later," he said. "This is wholly unacceptable."³⁰

²⁸ Abby D. Phillip, "IRS Planted Question About Tax Exempt Groups," *ABC News Network*, May 17, 2013, <https://abcnews.go.com/blogs/politics/2013/05/irs-planted-question-about-tax-exempt-groups/>.

²⁹ *Ibid.*

³⁰ <https://waysandmeans.house.gov/wp-content/uploads/2017/07/20130517FC.pdf>.

How much wholly unacceptable behavior had occurred? Consider that then-Chairman Dave Camp (R-Mich.) at the same hearing felt obliged to swear in the witnesses, though he acknowledged “it has not been the custom here at Ways and Means, but then it is not customary for this committee to have been so repeatedly misled by an agency under its purview.”

Amazingly, one now often hears the claim—I heard Sen. Sheldon Whitehouse (D-R.I.) make it in a Senate Finance hearing—that Lois Lerner and the Exempt Organization Division did not actually target conservatives or otherwise behave improperly. Let me quote the Inspector General’s testimony at that May 2013 hearing, summarizing his report, whose very title plainly states, “Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review”:

Our report issued earlier this week addresses three allegations: First, that the IRS targeted specific groups applying for tax exempt status; second, that they delayed the processing of these groups’ applications; and, third, that the IRS requested unnecessary information from groups it subjected to special scrutiny. All three allegations were substantiated.

The IRS used inappropriate criteria to target for review Tea Party and other organizations based on their name and policy positions. This practice started in 2010 and continued to evolve until June of 2011. As the monitor shows, the IRS was following inappropriate criteria....

The criteria included the words “tea party,” “patriots” or “9/12 project.” Another listed criterion was that the groups’ issues included government spending, government debt or taxes. Yet another listing criteria appeared as education of the public by advocacy or lobbying to “make America a better place to live.” Finally, the criterion consisted of any statements in the case file criticizing how the country is being run.

The reason these criteria were inappropriate is that they did not focus on tax exempt laws and Treasury regulations. For example, 501(c)(3) organizations may not engage in political campaign intervention. 501(c)(4) organizations can, but it must not be their primary activity. Political campaign intervention is action taken on behalf of or against a particular candidate running for office.

Although these criteria appeared in the IRS’s own documentation as of June 2011, IRS employees actually began selecting Tea Party and other organizations for review in

early 2010. From May of 2010 through May of 2012, a team of IRS specialists in Cincinnati, Ohio, referred to as the Determinations Unit selected 298 cases for additional scrutiny. According to our findings, the first time that executives from Washington, D.C. became aware of the use of these criteria was June 2011 with some executives not becoming aware of the criteria until April or May of 2012.

The IRS's inappropriate criteria remained in effect for approximately 18 months. After learning of the inappropriate criteria, the Director of Exempt Organizations changed the criteria in July of 2011 to remove references to organization names and policy positions. However, Cincinnati staff changed the criteria back to target organizations with specific policy positions, but this time they did not include Tea Party or other named organizations. Finally, in May of 2012, after learning that the criteria had again been changed, the Exempt Organizations Director of Rulings and Agreements changed the criteria to be consistent with laws and regulations.

The organizations selected for review for significant political campaign intervention, again 298 in all, experienced substantial delays in the processing of their applications.³¹

This summary should end the issue of Lerner's abusive "enforcement" activities, and yet as the expert Bradley A. Smith has explained to the Senate,³² "a counter-narrative has emerged that downplays the IRS scandal by claiming that because a few progressive groups also had their applications for tax-exempt status flagged and delayed, it is wrong to say the IRS under Lerner was targeting based on the political speech of the groups." This narrative, Smith observes, "ignores the evidence about both the scale and the severity of the targeting against groups on the right as opposed to groups on the left."

³¹ U.S. Department of the Treasury, Inspector General for Tax Administration, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," May 14, 2013, <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>.

³² <https://capitalresearch.org/article/nonprofit-political-activities-part-4/>.

First, this counternarrative relies on a 2017 TIGTA audit report³³ that indicated IRS reviews of applications for tax exemption included other types of suspected political activity besides conservative. But that report covered a time period that began in 2004, six years before the 2010 inception of the “tea party cases” activity by the IRS. The Treasury press release accompanying the 2017 report noted numerous problems associated with attempting to compare the 2017 TIGTA audit report with the seminal 2013 TIGTA audit report on Lerner....

The numbers for the actual period of the scandal are what count—not the numbers for the period before the IRS began targeting conservative groups. And what are those numbers? The IRS itself found that among those groups targeted by the IRS starting in 2010:

Of the 84 (c)(3) cases, slightly over half appear to be conservative-leaning groups based solely on the name. The remainder do not obviously lean to either side of the political spectrum. Of the 199 (c)(4) cases, approximately $\frac{3}{4}$ appear to be conservative leaning, while fewer than 10 appear to be liberal/progressive leaning groups based solely on the name.³⁴

Thus, while it is true that IRS screening to detect political activity (including the infamous BOLO list) did occasionally capture non-conservative groups, the large majority—and clear purpose—of the program was the targeting of conservatives. Hundreds of right-leaning groups were affected compared to fewer than ten left-leaning groups.

That alone should settle the debate, and yet it still does not capture the full extent of the IRS’s mistreatment of conservative groups. The initial targeting, after all, was only the first step. The real damage done was in the lengthy delays in approving groups’ tax-exempt status. Here, too, the IRS found that liberally-coded groups and conservative-

³³ U.S. Department of the Treasury, Inspector General for Tax Administration, “Review of Selected Criteria Used to Identify Tax-Exempt Applications for Review,” Report 114-119, September 28, 2017, <https://www.treasury.gov/tigta/auditreports/2017reports/201710054fr.pdf>.

³⁴ *Ibid.*, at Appendix IV.

coded groups received vastly different treatment. The 2017 TIGTA report found that most groups on the left who were “targeted” still had their tax-exempt status approved within two years, and the majority were approved in the first year. The opposite was true for groups on the right: the overwhelming majority were not approved in two years, according to the 2013 TIGTA report.

As the Sixth Circuit Court of Appeals put it, “the IRS used political criteria to round up applications for tax-exempt status filed by so-called tea-party groups; ... the IRS often took four times as long to process tea-party applications as other applications; ... the IRS served tea-party applicants with crushing demands for what the Inspector General called “unnecessary information.”³⁵

I would add that this appalling abuse of the IRS’s enforcement powers likely harmed not only the hundreds of groups who were mistreated, but also may well have skewed the entire 2012 election. A study by scholars from Harvard’s Kennedy School, Stockholm University, and the American Enterprise Institute compared voter turnout in the 2010 election, when Tea Party groups did not face IRS suppression, with turnout in the 2012 election, after the IRS’s obstruction blunted such groups’ ability to organize. The study observed that the 2010 success largely occurred because of “grassroots activities” involving 501(c)(4)s, and it estimated that similar functioning in 2012 “would have brought the Republican Party as many as 5 - 8.5 million votes compared to Obama’s victory margin of 5 million.”³⁶

³⁵ *U.S. v. NorCal Tea Party Patriots* (In re United States), 817 F.3d 953 (6th Cir. 2016).

³⁶ Veuger, Stan, “Yes, IRS Harassment Blunted The Tea Party Ground Game,” RealClearMarkets, June 20, 2013, https://www.realclearmarkets.com/articles/2013/06/20/yes_irs_harassment_blunted_the_tea_party_ground_game_100412.html. “Obama’s margin of victory in some of the key swing states was fairly small: a mere 75,000 votes separated the two contenders in Florida, for example. That is less than 25% of our estimate of what the Tea Party’s impact in Florida was in 2010.”

Question #7

Is Mind the Gap Super PAC still involved with nonprofits, and is that a reason for concern?

Yes, the Mind the Gap Super PAC, founded by the mother of disgraced crypto-billionaire Sam Bankman-Fried, continues to urge donors to weaponize the charitable sector so that they can more inexpensively win elections for the Democratic Party.³⁷

Mind the Gap's leaked memo to donors outlining its 2020 strategy urged donors that they should not waste their money by giving it to the Biden presidential campaign or other normal and legal political entities but should instead donate almost entirely to just three nonprofits:

The most effective tactic in a Presidential year by a wide margin is nonpartisan voter registration focused on underrepresented groups in our electoral process. *Provided that such are well-designed and executed, on a pre-tax basis* they are 2 to 5 times more cost-effective at netting additional Democratic votes than the tactics that campaigns will invest in ... on an after-tax basis such programs are closer to 4 to 10 times more cost effective....³⁸

The three nonprofits recommended as "well-designed" for the mission of "netting additional Democratic votes" were the 501(c)(4) Center for Voter Information, the (c)(3) Voter Participation Center, and the (c)(3) Everybody Votes/Voter Participation Center. The Voter Participation Center, as noted in Question 5, *supra*, has been characterized as pretending to nonpartisanship while in fact "the goal of all its efforts was to generate new votes for

³⁷ I should note that Bankman-Fried's mother, Stanford Law professor Barbara Fried, stepped down from her leadership role with Mind the Gap as her son's legal proceedings began to raise doubts about her family's integrity. Her husband, not surprisingly, is alleged to be entangled with Arabella Advisors, the Democrats' "dark money" colossus. See Schleifer, Theodore. "The Lost Gospel of S.B.F." Puck, November 22, 2022, <https://puck.news/the-lost-gospel-of-s-b-f/> and <https://www.influencewatch.org/person/allan-joseph-bankman/>.

³⁸ The Super PAC memo is available at Theodore Schleifer, "Inside the secretive Silicon Valley group that has funneled over \$20 million to Democrats," *Vox*, January 6, 2020, <https://www.vox.com/recode/2020/1/6/21046631/mind-the-gap-silicon-valley-democratic-donors-stanford> (emphasis in original).

Democrats.”³⁹ Everybody Votes/Voter Participation Center is the central “charity” described in my colleague Parker Thayer’s lengthy report on a massive scheme to abuse the charitable sector in order to boost partisan voter turnout.

Around the time of this Oversight Subcommittee hearing, the same reporter who revealed Mind the Gap’s 2020 strategy memo published news of the group’s 2024 strategy memo for donors. As Teddy Schleifer reported, the Super PAC declared its recommended 2024 presidential strategy is “to massively scale high-performing voter registration and mobilization programs,” but for this cycle they recommend only one grantee, the (c)(3) Everybody Votes/Voter Registration Project charity that our report highlighted. Mind the Gap adds that this charity’s voter registration work, along with voter-mobilization radio ads through American Independent Radio, “are projected to generate more net Democratic votes dollar for dollar than virtually any other tactic this cycle.”⁴⁰

Thus, even after this Super PAC’s abuse of charitable dollars and charitable groups was exposed by the media, and publicly criticized by this Committee which oversees the tax-exempt sector, and cited as an abuse in testimony to the U.S. Congress, and after I personally alerted one of the group’s leaders, Paul Brest, a Stanford Law professor and former president of the Hewlett Foundation, that these exposures of its illicit practices had occurred, the Super PAC and its donors apparently feel they have nothing to fear and are continuing to drive further abuses of the charitable sector.

Question #8

Should taxpayers be concerned about 501(c)(3) organizations using taxpayer-funded grants to assist in sending unvetted individuals to communities across the country?

³⁹ Issenberg, *The Victory Lab*, 305.

⁴⁰ Schleifer, Teddy, “The Stratosphere,” Puck News, https://puck.news/newsletter_content/sam-i-am-2/.

Yes, taxpayers and Members should be concerned about the role 501(c)(3) groups play in immigration policy and the influence that taxpayer-funded grants have on those charitable groups. As my colleague Kali Fontanilla has written,

Nonprofits and NGOs are not only supporting illegal immigrants with food and shelter when they arrive at the border; they are funding and guiding their migrations from far away in Latin America ... [providing] debit cards, maps, legal counsel, pamphlets to guide them on what to say to Border Patrol agents, etc. These organizations are using tax dollars and tax-exempt status to fund the operation. It's a mass invasion of America, literally funded by our own tax dollars. Stranger than fiction, indeed.⁴¹

Note that the charities involved are not responding humanely to a crisis that somehow arose. No, they are actively stimulating the crisis, both in their encouragement and manipulation of persons in foreign lands and also in their political advocacy here at home for the unpopular policy of lawless mass migration. This harms the nation in many ways, including in the way that it may eventually move generous Americans, who currently support our country's wonderful charitable sector, to stop contributing to long-established groups with a history of helping the needy who are now identified with a failed and harmful policy—such as the Red Cross, and the Catholic and Lutheran churches' charities.

The current federal policy of unrestrained, lawless immigration across our borders is the ultimate cause of the crisis, but unfortunately this manufactured crisis is exacerbated by the federal financial incentives that charities have to fuel the chaos, and by the current administration's apparent desire to use charities, or Non-Governmental Organizations (NGOs), to hide its unpopular border policies. As my colleague Sarah Lee reports, Betsy McCaughey, a former New York Lieutenant Governor, "sees something altogether more sinister in the funding

⁴¹ Fontanilla, Kali, "Nonprofits Fueling the Illegal Immigration Crisis," Capital Research Center, June 6, 2023, <https://capitalresearch.org/article/nonprofits-fueling-the-illegal-immigration-crisis/>.

of nonprofits to carry out the work of assimilating border crossers: money laundering in the pursuit of facilitating illegal immigration.”⁴²

“If you’re a taxpayer—in New York or anywhere in the US—you’re getting scammed by groups like United Way, Catholic Charities and the Central American Refugee Center (CARECEN). You may think these are charities. Truth is, these groups are hauling in millions in taxpayer dollars—your money—under government contracts to facilitate illegal immigration,” writes McCaughey. She sees the process as “money laundering. Democratic politicians want to maximize illegal immigration, but they don’t want their fingerprints on it. The remedy: pay so-called charities that will do the work for them.”⁴³

Numerous federal entities are part of this funding process, with some monies going through the United Nations as well. Cash comes from the Department of State and its Agency for International Development, and from the Department of Health and Human Services’ Administration for Children and Families and its Substance Abuse and Mental Health Services Administration (SAMSHA), and still more. One report on the hundreds of millions of tax dollars going to the nonprofit International Rescue Committee found grants from all those federal entities as well as others.⁴⁴

All this taxpayer funding does immediate harm to America’s immigration policies, which in turn disproportionately harm poorer communities, who face high burdens of caring for newcomers as well as low resources for carrying those burdens—the opposite in both respects of the wealthy Martha’s Vineyard residents who quickly rid their community of immigrants after Florida sent them there. But this corruption of America’s charities also does long-term damage to the entire nonprofit sector by excessively entangling it in federal funding. As Sen. Daniel Patrick Moynihan (D-N.Y.), widely acknowledged as one of the wisest Members of Congress in the past half-century, warned as far back as 1980, “this wonderfully creative civilization which we have

⁴² Lee, Sarah, “Mystery of Biden’s Chaotic Immigration Policy Exposed in Nonprofit Funding,” Townhall, October 19, 2022, <https://townhall.com/tipsheet/sarahlee/2022/10/19/mystery-of-bidens-chaotic-immigration-policy-exposed-in-nonprofit-funding-n2614755>.

⁴³ <https://nypost.com/2022/07/22/government-hides-money-for-illegal-immigration-in-charities/>.

⁴⁴ https://randoland.us/bill_breakdowns/refugee-revenue-international-rescue-committees-430-million-in-grants-under-biden/.

produced in North America and Western Europe is going to come to an end . . . through the slow but steady conquest of the private sector by the public sector.”⁴⁵

He spoke this warning to the inaugural meeting of the Independent Sector, an umbrella group for the fund-raising and fund-giving sides of the tax-exempt world. Moynihan thought the independent nonprofits in the audience were being “squeezed out of existence or slowly absorbed” by government. “Private institutions really aren’t private anymore,” Moynihan complained, because “many are primarily supplied by government funds.” He pleaded with his nonprofit audience to “think of your own institutions and how much money you now get from public sources.” He, a prominent Irish Catholic, bemoaned the fact that Catholic Charities had just tipped into majority funding by government. “In time, there cannot be any outcome to that encroachment save governmental control.”

Alas, this trend has only worsened. At the diocesan level, Catholic Charities now often receive as much as 80 percent of their funding from government, and Brian Anderson of the *City Journal* chronicled the history of Catholic Charities’ declining independence in an article aptly titled, “How Catholic Charities Lost Its Soul.”⁴⁶

For all these reasons, taxpayers and Members should be concerned about 501(c)(3) organizations using taxpayer-funded grants to assist in sending unvetted individuals to communities across the country.

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https://web.archive.org/web/20120711210449/http://www.philanthropyroundtable.org/topic/philanthropic_freedom/necessary_important_and_in_jeopardy.

⁴⁶ https://web.archive.org/web/20120114145033/http://www.city-journal.org/html/10_1_how_catholic_charities.html.

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Congress of the United States
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COMMITTEE ON
WAYS AND MEANS

JOINT ECONOMIC
COMMITTEE

January 3, 2024

Stewart Whitson
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Dear Mr. Whitson:

Please see the below question for the record following your testimony to the U.S. House Committee on Ways and Means on December 13, 2023.

Q: Does election funding from private individuals and third parties, such as "Zuckerbucks," have the potential to impact the integrity of the 2024 elections?

Please elaborate on your answer to the best of your ability, and feel free to include what sources you use. We appreciate any additional details and information you can provide.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Schweikert".

David Schweikert
Chairman
Subcommittee on Oversight
Committee on Ways and Means



**RESPONSE TO QUESTION FOR THE
RECORD FOLLOWING TESTIMONY
ON DECEMBER 13, 2023**

Presented to

Ways and Means Subcommittee on Oversight
United States House of Representatives

January 9, 2024

Stewart Whitson , *Legal Director*
Foundation for Government Accountability

Chairman Schweikert, Ranking Member Pascrell, and Members of the Committee:

On January 3, 2024, the Committee requested that I provide an answer, for the record, to the following question in follow up to my December 13, 2023 testimony: *“Does election funding from private individuals and third parties, such as “Zuckerbucks,” have the potential to impact the integrity of the 2024 elections?”*

Unfortunately, the answer to your question is an emphatic “yes.”

Two of the strategies being employed by third-party groups to attempt to impact the integrity of the 2024 elections include what my organization, the Foundation for Government Accountability (FGA) has described as “Zuckerbucks 2.0” and “Bidenbucks.” In my testimony in December, I briefly outlined both schemes but stopped short of providing additional facts and details given the time constraint for my statement. To provide the Committee with the context needed to understand and appreciate the additional facts offered below, I have included a recap of some of the overview I provided during my testimony, but what follows is primarily additional information not yet provided to the Committee.

As I stated on December 13, 2023, during the 2020 election, the Chan Zuckerberg Initiative donated more than \$400 million to fund election activities.¹

Most of those funds, coined “Zuckerbucks,” were provided to the Center for Tech and Civic Life (CTCL), a left-leaning non-profit run by a former Obama Foundation fellow.² Marketed as money for purchasing personal protective equipment in response to COVID-19, the funds were instead used primarily to drive procedural changes and get-out-the-vote efforts that benefited the Left. FGA research has revealed that counties won by President Biden in 2020 received significantly more in Zuckerbucks funding than counties won by former President Trump.³⁻⁴ The infusion of cash into certain jurisdictions—those that leaned heavily Democrat—drove up voter turnout in blue districts and allowed partisanship to weasel its way into the one part of elections that is supposed to be non-partisan.⁵⁻⁶⁻⁷ In other words, it appears that CTCL, a 501(c)(3) organization, used private funding to hijack and transform the government itself into a partisan get-out-the-vote tool.

Unfortunately, CTCL seems to be actively working to do this again in the lead-up to the 2024 election, attempting to sidestep new state Zuckerbucks bans in at least 27 states by rebranding itself as “the U.S. Alliance for Election Excellence.”⁸ We call this “Zuckerbucks 2.0.” According to an announcement made by CTCL, the new program will distribute at least \$80 million in funding across the country while providing “coaching” and other support to a select group of local election officials who pass a “verification and review process.”⁹⁻¹⁰ FGA research has revealed that as of October 2023, CTCL’s “new” program, “the U.S. Alliance for Election Excellence,” has already distributed at least \$13 million in grants to eight local election departments in six states: California, Connecticut, Georgia, Illinois, Nevada, and Wisconsin. By now, there are likely other states that have received funding and guidance as well. CTCL appears to have used private funding to impact elections in 2020 and may be actively working to do so again in 2024.¹¹

But CTCL isn’t the only third-party group whose actions should draw serious concern from the Committee. There is another group, Demos, that appears to be an even graver concern.

Back in March 2021, President Biden signed Executive Order (EO) 14019.¹² We call this scheme “Bidenbucks” because it is Zuckerbucks on steroids. Instead of Mark Zuckerberg, it’s President Biden, and instead of \$400 million dollars, it is the unlimited power, resources, and reach of the federal government and its offices located in states across the country.

The order commands the head of every federal agency to develop a plan to do two things: promote voter registration *and* promote voter participation.¹³ The order also commands all federal agencies to solicit and support “approved” third-party organizations to allow them to use federal resources to register and mobilize the voters these groups target, and to do so on federal property located in every state.¹⁴ Which groups will receive this special “approval?” We don’t know, because the Biden administration refuses to disclose the list or even the criteria for approval, not only to FGA, but to the dozens of members of Congress who have demanded answers as well.¹⁵⁻¹⁶⁻¹⁷⁻¹⁸

At the end of the day, this is a massive get-out-the-vote effort designed by the Left, to benefit the Left, by specifically targeting only those voters more likely to vote for the current president’s political party.

Here's some of what we know so far:

The U.S. Department of Health and Human Services (HHS) is transforming more than 1,400 federally qualified health centers located across the country into voter registration hubs.¹⁹ Under the authority of this EO 14019, new guidance has been issued authorizing federally qualified health centers to support voter registration efforts by third-party groups hand-selected by the current administration, including by making materials such as posters, brochures, and voter registration forms created by these third-party groups available to health center patients.²⁰ The Guidance also encourages these health centers to participate in voter registration community events by providing basic health assessments and screenings to help attract crowds to the event.²¹ In other words, it appears that these third-party groups hand-selected by the White House are collaborating with federally qualified health centers across the country to use federally-funded benefits and other resources to lure targeted groups of voters (only those likely to vote for the current president’s political party) to registration events sponsored by these left-wing groups.²²

Meanwhile, the U.S. Department of Labor (DOL) is turning more than 2,300 American Job Centers into voter registration agencies, allowing third-party groups to engage in voter outreach activities on site.²³ Which groups? No one knows because the Biden administration has refused to disclose which groups it is approving for this special access, nor has it disclosed the criteria for approval.²⁴

The U.S. Department of Agriculture (USDA) will allow food stamp agencies to use administrative funds to pay for voter registration and participation services.²⁵ Not only is the administration ordering agencies to engage in voter turnout activities in unprecedented ways, but it is also finding new ways to divert federal funds to this effort.

In addition, the U.S. Department of Housing and Urban Development (HUD) sent guidance to executive directors of more than 3,000 public housing authorities managing about 1.2 million housing units, advising them on how to run voter registration drives through public housing agencies (PHAs).²⁶ Federal housing officials also advised the local agencies on how to apply to become a “voter registration agency under the National Voter Registration Act,” and how to set up drop boxes for ballots on the premises.²⁷

And, in guidance the Department of Education issued to colleges and post-secondary schools in response to the Bidenbucks EO, the Department encouraged schools to use Federal Work Study funds to pay students supposedly employed directly by the institution, but who, in reality, often work under the direction and supervision of third-party groups, to engage in voter registration efforts and other community service activity related to the electoral process, both on and off campus.²⁸⁻²⁹ Think about that for a second. Federal work-study funds are now being used to pay students to work for certain left-wing voting groups to help them carry out their mission to target left-leaning voters, not just on campus, but off campus as well. The Biden administration is literally giving these groups an army of free workers to advance the shared mission of these third-party organizations and the current administration (to get President Biden reelected, at any cost), paid for on the backs of all taxpayers. This represents a huge financial boon to the Biden administration's political allies.

And lastly, according to recent guidance issued by the United States Citizenship and Immigration Service (USCIS), whenever state and local election officials are unavailable to attend a citizenship ceremony, federal officials are now required to invite "approved" third-party groups to attend these ceremonies in their place.³⁰ Notably, not only are these groups allowed to distribute and collect registration applications before and after the ceremonies, but they are actually given the opportunity to speak at the ceremonies and address the entire crowd to introduce themselves and their organization.³¹ These non-government third-party groups are being given special unfettered access to targeted groups of voters along with the impression that they are somehow sanctioned by the government. Obviously, there is a risk that newly admitted citizens and others attending naturalization ceremonies who might still be making their way through the immigration approval process may feel pressure to support or vote in a way that pleases these government-sanctioned groups.

At the end of the day, this is *targeted* voter registration and mobilization aimed at keeping the current administration in office, using the power, resources, and reach of the federal executive branch and its offices located in states across the country. And, again, Demos, a third-party organization funded by private individuals, is at the heart of this order—its creation *and* its implementation.³²

Lastly, it is important for the Committee to understand that not only is the Bidenbucks EO a serious threat to election integrity in 2024, but it is also an *unlawful* effort on the part of the Biden administration for at least three separate reasons.

First, Article I, Section 4, clause 1 of the U.S. Constitution affirms the authority of state legislatures to govern the time, places, and manner of elections with legislative oversight from Congress, but nowhere is the President given the power to control elections,³³ and for good and obvious reasons. Yet, that is precisely what President Biden is trying to do through this EO: control the *manner* in which state elections are carried out, including, how, when, where, and by whom voters can be not only registered to vote, but *mobilized* to vote.³⁴ And all of this is being accomplished courtesy of taxpayer funding and resources used in coordination with third-party groups hand-selected by and allied to the Biden administration.³⁵ By impermissibly seizing power which belongs exclusively to the legislature, the President is violating the constitutional right of state legislatures to regulate elections (and of Congress to, "*at any time by Law make or alter such Regulations, except as to the Places of Choosing Senators*"), undermining the Constitution's bedrock principles of Separation of Power, and Federalism.^{36 - 37 - 38} Even if the

administration could point to a federal statute clearly granting it the secretive, unbridled power over elections that it is seeking to exercise through this Bidenbucks EO, which it obviously cannot, such a delegation of power would *still* be unconstitutional. That is because the power at issue here, outlined in the elections clause, is clearly *legislative* power. And under the nondelegation doctrine Congress cannot delegate powers that are strictly and exclusively legislative, even if it wished to.³⁹ Bottom line, on its face, this Bidenbucks EO is unconstitutional.

Second, President Biden's EO violates federal law under the National Voter Registration Act of 1993 (NVRA) and the Administrative Procedure Act (APA), as the EO directs all agencies to assist in registering voters whether or not they are legally authorized to do so under the NVRA.⁴⁰⁻⁴¹ This goes beyond the statutory authority of these federal agencies that have been neither explicitly authorized under current law to register voters nor designated by the state to do so (as the NVRA requires).⁴² The irony is, the Biden administration is claiming statutory authority under the NVRA, yet its agencies are actually violating that law (as well as the APA) by acting as NVRA-designated voter registration agencies without the state designation required under federal law.⁴³

Third, the Bidenbucks EO violates a federal law known as the Anti-Deficiency Act, since it requires agencies to spend funds to carry out this scheme that Congress never authorized these agencies to spend.⁴⁴ The Anti-Deficiency Act, codified at 31 U.S.C. Section 1341, strictly forbids this.⁴⁵

At the end of the day, as several members of the Committee emphasized during the hearing, election integrity is about more than just stopping election fraud. It is about inspiring confidence in the outcome of elections. On the day following an election, every American, whether their preferred candidate won or lost, should at least have confidence in the accuracy of the outcome. Ignoring, for a moment, the illegal and unconstitutional aspects of the Bidenbucks EO, all members of this Committee should at least be able to agree that the EO represents an improper use of Executive Branch power that will surely undermine confidence in the outcome of the next election. It may even impact the result. And even if it doesn't, what's to stop the next president, no matter what party he or she happens to hail from, from using this EO to keep his or her political party in power? For the sake of our country, Congress must do everything it can to stop this unprecedented scheme. This hearing was surely an important step in that direction.

In closing, on behalf of FGA, I once again thank Chairman Schweikert, Ranking Member Pascrell, and Members of the Committee for the opportunity to provide testimony and this written response to your question regarding this important issue.

¹ "Press Release: CTCL Receives Additional \$100M Contribution to Support Critical Work of Election Officials," Center for Tech and Civic Life (2020), <https://www.techandcivillife.org/100m/>.

² Tiana Epps-Johnson, Center for Tech and Civic Life (2023), <https://www.techandcivillife.org/team/tiana-epps-johnson/>.

³ Hayden Dublois, "How 'Zuckerbucks' infiltrated and influenced the 2020 Florida election," Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-infiltrated-florida-election/>.

⁴ Hayden Dublois and Jonathan Bain, "How 'Zuckerbucks' infiltrated and influenced the 2020 Iowa election," Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-iowa-election/>.

⁵ Hayden Dublois and Tyler Lamensky, "Zuckerberg went down to Georgia: How Zuckerbucks influenced the Georgia elections," Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-influenced-georgia-elections/>.

⁶ Alli Fick and Tyler Lamensky, "How Zuckerbucks infiltrated the Wisconsin election," Foundation for Government Accountability (2021), <https://thefga.org/research/zuckerbucks-wisconsin-election/>.

- ⁷ Trevor Carlsen, "Show Me the Zuckerbucks: Outside money infiltrated Missouri's 2020 election," Foundation for Government Accountability (2021), <https://thefga.org/research/show-me-the-zuckerbucks-outside-money-infiltrated-missouri-2020-election/>.
- ⁸ Center for Tech and Civic Life, "CTCL launches the U.S. Alliance for Election Excellence," Center for Tech and Civic Life (2022), <https://www.techandcivillife.org/us-alliance-for-election-excellence-launch/>.
- ⁹ *Id.*
- ¹⁰ U.S. Alliance for Election Excellence, "A community of support focusing on the fundamentals of democracy," U.S. Alliance for Election Excellence (2022), <https://www.electionexcellence.org/>.
- ¹¹ Foundation for Government Accountability, "New funding program launched by Center for Tech and Civic Life could sidestep state bans on private funding of local elections – including bans on Zuckerbucks," Foundation for Government Accountability (2022), <https://thefga.org/press/new-funding-program-launched-by-center-for-tech-and-civic-life-could-sidestep-state-bans-zuckerbucks/>.
- ¹² "Presidential Executive Order 14019, Promoting Access to Voting," Federal Register, National Archives (2021), <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ Michael Ginsberg & Henry Rodgers, Exclusive: House Republicans Demand Investigation of Biden Order to Promote Voter Registration, *Daily Caller* (2022), <https://dailycaller.com/2022/01/19/house-republicans-biden-voter-registration/>.
- ¹⁶ "Five House Republican Committee Leaders Raise Concerns On Biden Administration Directing Federal Agencies To Engage in Voting Access & Registration Activities," Committee on House Administration, Ranking Member Rodney Davis (2022), <https://republicans-chs.house.gov/media/press-releases/nine-house-republican-committee-leaders-raise-concerns-biden-administration>.
- ¹⁷ "Rep. Norman Leads Letter Demanding the Department of Justice Disclose Its Plans to Carry Out President Biden's Executive Order to Promote Voter Registration and Voter Participation," Office of Rep. Ralph Norman (2022), <https://norman.house.gov/news/documentsingle.aspx?DocumentID=1494>.
- ¹⁸ "Hagerty and Colleagues Call Out Biden for Ignoring Demands for Transparency on Taxpayer-Funded Voter Mobilization Plans," Office of Sen. Bill Hagerty (2023), <https://www.hagerty.senate.gov/press-releases/2023/11/29/hagerty-and-colleagues-call-out-biden-for-ignoring-demands-for-transparency-on-taxpayer-funded-voter-mobilization-plans/>.
- ¹⁹ Briefing Room, "Fact sheet: Biden-Harris administration releases report on Native American voting rights," The White House (2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-biden-harris-administration-releases-report-on-native-american-voting-rights/>.
- ²⁰ Voter Registration and Health Centers, Health Center Program, Health Resources & Services Administration (2022), <https://fbphc.hrsa.gov/compliance/scope-project/voter-requirements>.
- ²¹ *Id.*
- ²² *See id.*
- ²³ Employment and Training Administration, "US Department of Labor issues guidance to states, territories to designate American Job Centers as voter registration agencies," U.S. Department of Labor (2022), <https://www.dol.gov/newsroom/releases/eta/eta20220325>.
- ²⁴ Tarron Bragdon & Stewart Whitson, Voter Registration Drive: What's Biden Hiding?, *The Wall Street Journal* (2022), <https://www.wsj.com/articles/voter-drive-whats-biden-hiding-justice-department-freedom-of-information-foia-transparency-corruption-lawsuit-foundation-for-government-accountability-11650403740>.
- ²⁵ Briefing Room, "Fact sheet: Biden-Harris administration releases report on Native American voting rights," The White House (2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-biden-harris-administration-releases-report-on-native-american-voting-rights/>.
- ²⁶ Fred Lucas, HUD Pushes Voter Registration Drives in Public Housing Under Biden's Executive Order, *The Daily Signal* (2022), <https://www.dailysignal.com/2022/04/27/hud-pushes-voter-registration-drives-in-public-housing-under-bidens-executive-order/>.
- ²⁷ *Id.*
- ²⁸ Requirements for Distribution of Voter Registration Forms, GEN-22-05, U.S. Department of Education (2022), <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-04-21/requirements-distribution-voter-registration-forms>.
- ²⁹ Fact Sheet: Biden-Harris Administration Releases Report on Native American Voting Rights, White House Briefing Room (2022), <https://www.whitehouse.gov/briefingroom/statements-releases/2022/03/24/fact-sheet-biden-harris-administration-releases-report-on-native-american-voting-rights/>.
- ³⁰ Policy Alert: Access to Voter Registration Services During Naturalization Ceremonies, PA-2023-25, USCIS (2023), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230825-VoterRegistration.pdf>.
- ³¹ *Id.*
- ³² Stewart Whitson, "Biden's Unlawful Plan to Federalize Elections," *The American Spectator* (2021), <https://spectator.org/bidens-unlawful-plan-to-federalize-elections/>.
- ³³ U.S. Const. art. I, §4, cl. 1.
- ³⁴ "Presidential Executive Order 14019, Promoting Access to Voting," Federal Register, National Archives (2021), <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.
- ³⁵ *Id.*
- ³⁶ See, e.g., *Rucho v. Common Cause*, 139 S. Ct. 2484, 2496 (2019).

³⁷ *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 17 (2013) (quoting *THE FEDERALIST* No. 60, at 371 (A. Hamilton)).

³⁸ See U.S. CONST. amend. X.

³⁹ *Gundy v. United States*, 139 S. Ct. 2116, 2123 (2019) (quoting *Wayman v. Southard*, 23 U.S. (10 Wheat.) 1, 4243 (1825) (“All legislative Powers ... [are] vested in [the] Congress of the United States,” U.S. Const. Art. I, §1, and “Congress ... may not transfer to another branch ‘powers which are strictly and exclusively legislative.’”).

⁴⁰ 52 U.S.C. §§20501 *et seq.*

⁴¹ 5 U.S.C. §706(2).

⁴² 52 U.S.C. §§20502, 20506

⁴³ *Id.*

⁴⁴ 31 U.S.C. Section 1341 (The Anti-Deficiency Act provides that “an officer or employee of the United States Government ... may not ... make or authorize an expenditure or obligation exceeding an amount available in an appropriation,” or else “involve [the] government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.”).

⁴⁵ *Id.*

PUBLIC SUBMISSIONS FOR THE RECORD



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Testimony for the record on behalf of the Council on Foundations submitted to the U.S. House Ways and Means Subcommittee on Oversight on "Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape"

December 19, 2023

Dear Chairman Smith, Chairman Schweikert, Ranking Member Neal, Ranking Member Pascrell, and members of the Subcommittee:

Thank you for this opportunity to provide written testimony for the record on the subject of "Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape."

The Council on Foundations is a nonprofit membership association that serves as a guide for philanthropies as they advance the greater good. Building on our almost 75-year history, the Council supports over 850 member organizations in the United States and around the world to build trust in philanthropy, expand pathways to giving, engage broader perspectives, and co-create solutions that will lead to a better future for all.

The United States is the most charitable country in the world: [in 2022 alone](#), total giving surpassed \$499 billion, with foundation giving making up over 20% of overall giving at \$102 billion. This culture of philanthropy has resulted in vital investments that support organizations across the country and around the world. These investments fuel innovation, respond to disasters natural and manmade, provide vital services to vulnerable communities, and contribute to workforce and economic development.

The Council echoes Professor Phil Hackney's statement at the December 13 Subcommittee hearing: a "diverse nonprofit sector that fosters civic participation and engagement is a gem of the United States." Our sector champions a diversity of funding priorities, from rural workforce development to providing humanitarian aid abroad to ensuring

religious organizations have the means to support their communities, among many others. This pluralistic approach to charitable giving has allowed the U.S. to maintain a vibrant civil society.

Our members and the philanthropic sector more broadly play a key role in supporting civic engagement and bolstering our democracy. And safeguards such as the Johnson Amendment already exist to protect charitable nonprofits from being pressured to participate in the electoral process and partisan political campaigns. While we will not fully restate the [comments we submitted](#) in response to Chairman Smith and Chairman Schweikert's Request for Information in August, we would like to reiterate the following points and supplement them with additional information:

- Nonprofit civic engagement is part of a healthy civil society.
- A healthy regulatory environment is important for nonprofit integrity.
- Section 501(c)(3) organizations are already prohibited from engaging in partisan political activity and electioneering.
- Disclosure of donor information to the Internal Revenue Service (IRS) is critical to maintaining public trust in the sector.
- Congress should prioritize passage of the Charitable Act ([H.R.3435](#)).

Nonprofit civic engagement is part of a healthy civil society.

Fear and confusion within the charitable sector have caused many section 501(c)(3) organizations to decrease their civic engagement and public policy work. In fact, [recent research from Independent Sector](#) shows that nonprofit organizations are significantly less likely to engage in public policy work now than they were 20 years ago, citing concerns around tax laws and IRS rules. These concerns have stunted entirely legitimate nonprofit engagement with policy and advocacy. This is unfortunate particularly because voter participation and civic engagement are core to a healthy and thriving democracy.

While they are rightly prohibited from electioneering and political campaign activity, section 501(c)(3) organizations—including many of our members—have long supported nonpartisan efforts to expand civic engagement. This commitment to our democracy ensures nonprofits have the resources they need to support communities; promote voter education; and, at a time when voter participation is lower in the U.S. than in other democracies, encourage a broader swath of Americans to vote. Far from being partisan political activity, this work reinforces the U.S. as a beacon for democracy around the world.

Nonprofits play an essential role in elevating important issues for public discourse, creating a more informed citizenry, and energizing voters to participate in the democratic process. Congress must honor this role and consult with nonprofits when developing new policies that impact our work.

A healthy regulatory environment is important for nonprofit integrity.



We support a healthy regulatory environment for the nonprofit sector, including laws currently in place, and when appropriate, regulatory action subject to public comments and consultation with the sector. However, such an environment requires first enforcing existing law. As Professor Hackney detailed in his testimony, the laws prohibiting bad behavior already exist; the IRS has inadequate resources to enforce them. We urge Congress to fully fund the IRS to ensure that it is better equipped to review nonprofit applications and investigate nonprofits suspected of acting inappropriately or illegally.

The sector also has a strong commitment to self-regulation. For example, last year, the Council published a set of [ethical principles](#) that we encourage our members to adopt. In addition, over 400 community foundations are accredited under [Community Foundation National Standards](#). This accreditation represents a commitment to best practices that exceed federal and state law and prioritize accountability and integrity.

Placing philanthropic mission above personal gain is core to nonprofit and foundation ethics. Nonprofits engaging in inappropriate or illegal behavior damage the sector's integrity and destroy the public trust that we have spent decades cultivating.

Section 501(c)(3) organizations are already prohibited from engaging in partisan political activity and electioneering.

The Council strongly supports the Johnson Amendment, which both prohibits and protects section 501(c)(3) organizations from engaging in partisan political activity and electioneering. Nonprofits, which solicit funding from both government and private donors, should never be pressured to engage in partisan electioneering—and the Johnson Amendment ensures they cannot be. Charitable organizations that inappropriately or illegally engage in prohibited activity damage public trust in both the nonprofit sector and our political system.

Current guidance from the Department of the Treasury and the IRS on the definition of “political campaign intervention” correctly prohibits section 501(c)(3)s from electioneering or otherwise intervening in political campaigns. Further guidance should consider the perspective of nonprofits, and we urge both the Subcommittee and regulators to engage with our sector when developing or modifying policies around this issue.

Furthermore, section 501(c)(3) public charities engaging in lobbying activities must disclose this information on their Form 990 Schedule C. This includes detailing any expenditures related to both grassroots and direct lobbying. These organizations are also limited in how much they can legally spend on lobbying (including personnel costs). Section 501(c)(3) private foundations are subject to even more restrictions.

Finally, while section 501(c)(3) organizations can contribute to section 501(c)(4) organizations, funding from the 501(c)(3)s cannot be used for activities the 501(c)(3) organizations are themselves prohibited from engaging in. For example, a section 501(c)(3) community foundation's grant to a section 501(c)(4) organization cannot then be



funneled to a superPAC or be used to support a political candidate. It is essential that this prohibition is both protected and enforced.

These limitations and reporting requirements are necessary to maintaining transparency and public trust in the nonprofit sector. The IRS must enforce existing law around these limitations and requirements, and Congress should ensure it has the resources to do so.

Disclosure of donor information to the IRS is critical to maintaining public trust in the sector.

Currently, section 501(c)(3) organizations are required to report the names and addresses of donors who have made contributions totaling over \$5,000 to the IRS on their Form 990 Schedule B. This reporting requirement preserves public trust in the nonprofit sector and equips the federal government with a tool that helps identify bad actors. We would support a similar requirement for 501(c)(4) organizations, which would enable the federal government to better understand how donors to these organizations—foreign and otherwise—influence U.S. politics.

At the same time, we oppose requiring exempt organizations to publicly disclose donor information. Public disclosure of donor information can endanger donors supporting controversial causes and subject them to solicitations from potentially bad actors. Organizations across the ideological spectrum, from the [Americans for Prosperity Foundation](#) to the [NAACP and American Civil Liberties Union](#), have emphasized the need for protecting donors from public disclosure.

Congress should prioritize passage of the Charitable Act ([H.R. 3435](#)).

We would like to express our deep gratitude to Rep. Danny Davis for his leadership on the Charitable Act and for raising this important legislation at this hearing. The Charitable Act would expand the charitable deduction to nonitemizers, ensuring a greater cross-section of Americans are recognized for their charitable giving. This issue continues to be a priority for our sector. We urge Congress to prioritize passage of this bill, which could open the doors for billions of dollars to flow into the communities that need them most.

Conclusion

Foundations and their nonprofit partners are nimble and responsive, providing urgent support in the aftermath of disasters natural and manmade while filling in day-to-day gaps left by government. This vibrant and diverse nonprofit sector, championing a multitude of causes and working to address a multitude of issues, is not only an American tradition: it is a critical component of our democracy.

While we commend the Subcommittee's efforts to strengthen and protect the American electoral process, we urge Congress to consult with our sector when considering additional laws or guidelines that might impact our work. We welcome the opportunity to partner with Members of both the Subcommittee and the full Committee.



Thank you again for this opportunity to submit testimony for the record. We look forward to working with you to ensure the nonprofit sector can continue to meet the needs of our communities today and into the future.

PEOPLE UNITED *for* PRIVACY

December 13, 2023

The Honorable David Schweikert
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Ranking Member, Oversight Subcommittee
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RE: The Crucial Importance of Nonprofit Donor Privacy Protections Amidst Overblown Fears and Rhetoric Alleging Foreign Interference in American Politics

Dear Chairman Schweikert, Ranking Member Pascrell, and Members of the House Ways and Means Committee's Oversight Subcommittee:

People United for Privacy¹ submits the following comments for the hearing record concerning the December 13, 2023 hearing in the U.S. House Committee on Ways and Means Subcommittee on Oversight to discuss the "Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape." The comments in this statement build upon our recommendations to the full House Ways and Means Committee in our response to its recent Request for Information on the alleged improper political activities of Section 501(c) organizations.²

Nonprofits are the backbone of civil society in America and play an essential role in our democracy. Increased regulation of the nonprofit sector risks a panoply of unintended consequences that will dampen civic engagement and threaten Americans' First Amendment rights. Legislative or regulatory action aimed at exposing the names and addresses of organizations' members and supporters poses a particular threat to nonprofits' willingness to engage on issues core to their mission and risks violating free speech and privacy protections guaranteed by the U.S. Constitution.

I. Allegations that foreigners are covertly donating to nonprofits for political advocacy are overblown, existing laws adequately address perceived concerns, and there are serious pitfalls to additional regulation in this sensitive area.

To the extent Subcommittee members intend to focus this hearing on allegations of foreigners donating to American nonprofits that then engage in political activity, some important reminders and clarifications are essential to an informed discussion of this topic.

A. Hysteria about foreign influence in American elections is unfounded.

Fears of foreign involvement in American elections are not new, especially in recent political history. Members of both political parties have seized on anxiety about foreign influence in elections

¹ People United for Privacy (PUFP) believes every American has the right to support causes they believe in without fear of harassment or intimidation. We are a nonprofit, nonpartisan organization that works to protect the rights of individuals to come together in support of their shared values, and we also protect the resources organizations need to make their voices heard. PUFP provides information and resources to policymakers, media, and the public about the need to protect freedom of speech and freedom of association through preserving citizen privacy.

² See Matt Nese and Eric Wang, "Request for Information on Political Activities of Section 501(c) Organizations," People United for Privacy. Available at: <https://unitedforprivacy.com/wp-content/uploads/2023/09/2023-09-04-Comments-PUFP-Response-To-House-WM-Nonprofit-Political-Activity-RFI.pdf> (Sept. 4, 2023).

as a pretense for pursuing broader and unrelated political goals. President Obama famously protested in his 2010 State of the Union Address that the Supreme Court’s *Citizens United* decision would “open the floodgates” for unfettered foreign interference in American elections,³ prompting Justice Alito to mouth the words “not true” in response to the hyperbolic and misleading claim. More recently, Democrats in Congress have sought to justify privacy intrusions in the so-called “For the People Act”⁴ and the “DISCLOSE Act”⁵ by pointing to alleged Russian interference in the 2016 election in support of former President Trump. Earlier this year, the House Ways and Means Committee’s August 2023 Request for Information, which underlies this hearing, echoed these efforts in expressing “significant concern” about foreign actors funding American nonprofits that speak about politics.⁶

While *Citizens United* affirmed the First Amendment rights of incorporated entities, including nonprofits, to independently support political causes, the Supreme Court has since unanimously affirmed a lower court ruling upholding a ban on foreign spending in U.S. elections.⁷ Quite simply: It is illegal for foreign citizens who are not permanent residents to spend money in U.S. elections. While nonprofits may legally accept contributions from foreign sources, they may not use those donations to influence elections and must be able to demonstrate that any activities are funded by U.S. citizens and permanent residents.⁸

According to calculations from the Institute for Free Speech, political spending by nonprofits, often referred to pejoratively as “dark money,” constitutes a minute percentage of overall political spending – typically about 3.5% of total spending.⁹ Even this statistic overstates the situation, as high-profile nonprofit political spenders like the League of Conservation Voters, National Association of Realtors, National Rifle Association, and Planned Parenthood Action Fund cannot be credibly accused of being pass-through entities funded entirely or even substantially by foreign interests. Though rogue actors will always be willing to break the law, a robust framework of laws and regulations exists to police and punish such illicit activity.

From the Cold War to today, Americans have steadfastly refused to sacrifice their First Amendment rights in response to actual or perceived short-term political threats. We must not let anxieties about nefarious actions by China, Iran, Russia, or any other rogue state actor scare Congress into passing laws that unduly burden the rights of Americans to support causes they believe in

³ Bradley A. Smith, “Celebrate the *Citizens United* Decade,” *The Wall Street Journal*. Available at: <https://www.wsj.com/articles/celebrate-the-citizens-united-decade-11579553962> (Jan. 20, 2020).

⁴ Eric Wang, “Analysis of H.R. 1 (Part One): ‘For the People Act’ Is Replete with Provisions for the Politicians,” Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2021/02/2021-02-22_IFS-Analysis_HR-1_DISCLOSE-Honest-Ads-And-Stand-By-Every-Ad.pdf (Feb. 22, 2021).

⁵ Matt Nese, “Opposition to the DISCLOSE Act and its Destructive Impact on Nonprofit Advocacy and Citizen Privacy,” People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2022/07/2022-07-25_PUFP-Letter_US_Senate-Rules-Committee_DISCLOSE-Act-Hearing.pdf (July 25, 2022).

⁶ “Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code,” U.S. House Committee on Ways and Means. Available at: <https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/UPDATED-RFI-on-501c3-and-c4-Activities-FINAL.docx87.pdf> (Aug. 14, 2023).

⁷ *Bluman v. Federal Election Commission*, 565 U.S. 1104 (2012).

⁸ See, e.g., Federal Election Commission MUR 7081 (Floridians for a Strong Middle Class). Available at: <https://www.fec.gov/files/legal/murs/7081/17044430866.pdf> (Sept. 25, 2017).

⁹ See Luke Wachob, “Putting ‘Dark Money’ In Context: Total Campaign Spending by Political Committees and Nonprofits per Election Cycle,” Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2017/10/2017-05-08_IFS-Issue-Brief_Wachob_Putting-Dark-Money-In-Context.pdf (May 8, 2017) and Bradley A. Smith, “*Citizens United* at 10: The Consequences for Democracy and Potential Responses by Congress,” Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2020/02/2020-02-06_Smith-Written-Testimony_US_CU-At-10_House-Judiciary-Subcommittee.pdf (Feb. 6, 2020) at 4-6.

securely and privately. This is especially true in the present circumstance, where evidence of an actual problem is lacking and confidence in a proposed solution to deter or eliminate foreign influence is low.

B. The Federal Election Campaign Act already requires robust disclosure by groups engaged in political campaign activity and prohibits foreign contributions to fund such activity while the Bank Secrecy Act provides a mechanism for monitoring suspicious transactions involving foreign funds.

The Federal Election Campaign Act (FECA) and regulations enforced by the Federal Election Commission (FEC) require organizations, including Section 501(c) nonprofits, that report spending on “independent expenditures” and “electioneering communications” to identify donors who earmark their contributions for such activities.¹⁰ The FEC’s regulations also address partisan and nonpartisan voter registration, get-out-the-vote drives, voter guides, and candidate forums.¹¹

The FECA already prohibits foreign nationals from making contributions and expenditures in connection with U.S. elections.¹² This prohibition is broad and covers contributions made “directly or indirectly,” such as routing money to an independent expenditure-only political committee (known informally as a “Super PAC”) through a nonprofit organization.¹³ Section 501(c) organizations are also prohibited from soliciting, accepting, or receiving a contribution from a foreign national to influence U.S. elections.¹⁴

Additionally, the FECA prohibits contributions from being made “in the name of another person.”¹⁵ As the U.S. Department of Justice explains,¹⁶ “violations occur when a person gives money to straw donors, or conduits, for the purpose of having the conduits pass the funds on to a specific federal candidate [or PAC] as their own contributions.”¹⁷ Routing a foreign national’s political contribution through a Section 501(c) organization would further violate the FECA’s conduit contribution ban.

In addition to guardrails against foreign funding of election activity bolstered by the FECA and FEC regulations, the Currency and Foreign Transactions Reporting Act of 1970, better known as the Bank Secrecy Act, acts as another powerful safeguard against foreign money entering federal elections. Federal regulations under the Bank Secrecy Act broadly require that “[e]very bank shall file with the Treasury Department ... a report of *any suspicious transaction* relevant to a possible violation of law or regulation.”¹⁸

¹⁰ 52 U.S.C. § 30104(c)(2)(C); 11 C.F.R. § 104.20(c)(10). An “independent expenditure” is an expenditure “expressly advocating the election or defeat of a clearly identified candidate” and that is not coordinated with the candidate, candidate’s campaign, or a political party committee. 52 U.S.C. § 30101(17). An “electioneering communication” is a television or radio advertisement that references a clearly identified candidate within 30 days before the primary or 60 days before the general election and that is “targeted to the relevant electorate.” 52 U.S.C. § 30104(f)(3).

¹¹ See 11 C.F.R. § 114.4(b), (c)(2)-(5).

¹² See 52 U.S.C. § 30121.

¹³ *Id.* § 30121(a)(1).

¹⁴ *Id.* § 30121(a)(2).

¹⁵ *Id.* § 30122.

¹⁶ While the FEC has authority over civil FECA violations, the Department of Justice has authority over criminal FECA violations.

¹⁷ Craig C. Donsanto and Nancy L. Simmons, “Federal Prosecution of Election Offenses, 7th Ed.,” U.S. Department of Justice. Available at: <https://www.justice.gov/sites/default/files/criminal/legacy/2013/09/30/electbook-rvs0807.pdf> (rev. Aug. 2007) at 166.

¹⁸ See 31 C.F.R. § 1020.320 (reports by banks of suspicious transactions) (emphasis added).

Tax-exempt organizations may legally accept foreign money, as long as they don't use the funds to influence federal elections. Between the Bank Secrecy Act and FECA, a federal regulatory scheme exists to block foreign nationals from making contributions to affect U.S. elections, whether directly or indirectly.

C. Rushing to respond to an overblown concern with new legislation or regulations could result in serious harm to the First Amendment and important voices in our policy debates.

Many Americans – including most, if not all, Members of Congress – support a transition to democracy in China, but donor disclosure along the lines contemplated by the Committee's recent Request for Information would cripple this burgeoning movement. The Founder and President of Citizen Power Initiatives for China (CPIC), a U.S.-based nonprofit organization advocating for democracy in his native China, explains why:

Most people who want to support [CPIC], including those living in the U.S., have some connection to China through their family, friends, or business. China has a long arm to harass and surveil. Public exposure of our supporters' identities by federal or state agencies in the United States would enable the Chinese government and others acting on its behalf to more easily threaten and harass our supporters. Many people in the U.S. have demurred from supporting our cause because of these fears.

Our story should give pause to politicians in the United States who seek to force nonprofits to publicly expose their supporters when speaking on matters of public concern... It is no exaggeration to say that privacy is a matter of life and death for our members and donors as well as for our organization itself. Our work would be unsustainable without the ability to shield our supporters. The same is true for many other important causes supported by nonprofits throughout the United States.¹⁹

Consider another contemporary example. Rising tensions over the Israel-Hamas war are challenging First Amendment rights Americans have long taken for granted. People on both sides of the conflict are facing intimidation, censorship, and even harm for expressing their views.

University professors have targeted pro-Israel students²⁰ and even encouraged violent attacks on "Zionist" journalists.²¹ Meanwhile, a conservative group sent a "doxing truck" to target individual students associated with groups that signed a controversial anti-Israel statement following the October 7 attack by Hamas.²² Numerous Americans have lost their jobs for speaking out about the conflict, including a magazine editor who was fired for sharing an article from *The Onion*

¹⁹ Jianli Yang, "When Donor Privacy is a Life or Death Matter," *RealClearPolicy*. Available at: https://www.realclearpolicy.com/articles/2022/07/15/when_donor_privacy_is_a_life_or_death_matter_842585.html (July 15, 2022).

²⁰ Beth Harpaz, "Stanford instructor removed for targeting Jewish students as 'colonizers' after Hamas attack on Israel," *Forward*. Available at: <https://forward.com/news/564587/stanford-university-jewish-students-instructor-hamas/> (Oct. 12, 2023).

²¹ Jeremy Childs, "UC Davis condemns post apparently by professor threatening 'zionist journalists,'" *Los Angeles Times*. Available at: <https://www.latimes.com/california/story/2023-10-21/uc-davis-condemns-post-apparently-by-professor-threatening-zionist-journalists> (Oct. 21, 2023).

²² Anemona Hartocollis, "After Writing an Anti-Israel Letter, Harvard Students Are Doxxed," *The New York Times*. Available at: <https://www.nytimes.com/2023/10/18/us/harvard-students-israel-hamas-doxxing.html> (Oct. 18, 2023).

satirizing reactions to the war as indifferent to Palestinian deaths.²³ Posters have been put up and torn down; protests on both sides have swelled in size and at times turned ugly; and divisions seem to deepen with each passing day.

In today's heated political climate, Americans face potential violence and attempts to destroy their livelihood for their views or identity. Efforts to expose citizens' membership in or donations to nonprofit groups would exacerbate this problem and put Americans at greater risk of retaliation for their beliefs. Tolerance for opposing views is the only way for a country of 330 million people to coexist while debating controversial issues. Yet privacy invasions put free speech in peril.

Speech cannot be free if government officials, powerful actors, or unruly in-person or online mobs can easily uncover an individual and punish them for their beliefs and associations. Freedom of expression is unnecessary to protect the right to discuss the weather or share views held by most Americans. It is most important precisely when people wish to voice dissenting, unpopular, or even grossly offensive ideas. **If we fail to protect fundamental First Amendment rights for every important debate playing out in the United States, Americans will quickly find themselves without shelter for their views.**

From China's growing surveillance state to the rapid escalation of attacks and hate in response to divergent views on the Israel-Hamas war, American commitments to free speech and privacy in association are desperately needed today. The Subcommittee must proceed cautiously as it examines these issues and potential proposals that would harm or possibly eviscerate these rights.

II. Increased regulation of nonprofit advocacy and additional reporting requirements would exacerbate the risk of uneven or biased enforcement and invoke serious compliance costs, particularly when greater power is granted to a non-expert agency like the IRS.

Enforcing regulations on speech and advocacy is inherently complex and often involves making difficult determinations along unclear lines. For example, to enforce current political speech regulations, the IRS relies on a multi-step "facts and circumstances" test that leaves ample room for interpretation. The vague nature of such regulations not only makes it difficult for groups to have a clear understanding of regulatory lines but also leaves room for biased or uneven enforcement.

After the House Committee on Oversight and Government Reform investigated the IRS Tea Party targeting scandal in the 113th Congress, the Committee issued a scathing report concluding that:

The solution is obvious and ought to be noncontroversial: **Congress must disentangle politics from the IRS.** To regain the trust of American taxpayers, the IRS must return to its traditional role as a dispassionate administrator of the federal tax code. **The IRS must not be an agency that determines what is and what is not political speech** and, correspondingly, whether a social-welfare group receives a tax-exemption for making political speech. Political speech can help advance the social welfare and social-welfare groups should be allowed to advance the debate about issues important to the nation. **Other federal regulators exist to oversee political**

²³ "Prominent journal editor fired for endorsing satirical article about Israel-Hamas conflict," *Science*. Available at: <https://www.science.org/content/article/prominent-journal-editor-fired-endorsing-satirical-article-israel-hamas> (Oct. 23, 2023).

campaigns and elections. That duty has never belonged – and should not belong – to the IRS.²⁴

From an enforcement standpoint, use by the IRS of a donor's surname or foreign address to question whether he or she is an American citizen raises serious concerns. Many Americans live abroad. Enforcing tax laws based upon the perceived ethnic or geographical origin of a person's name elicits constitutional objections that reach far beyond the First Amendment.

Likewise, compliance burdens for nonprofits must not be overlooked. Nonprofits routinely receive donations without the ability or time to verify the citizenship status of the donor. In many cases, it is not possible to obtain such information without expending significant time and effort. The potential compliance costs of a foreign donor reporting regime will bankrupt many volunteer-led or grassroots organizations and will certainly divert precious funds that would otherwise be used in furtherance of nonprofit missions.

New laws aimed specifically at the advocacy activities of the tax-exempt sector will inevitably increase the power of the IRS over political speech and create an environment for more scandals and less speech. Instead of pursuing new schemes to regulate speech through the tax code, Congress should remove such matters from the IRS's jurisdiction altogether and shift regulation to the Federal Election Commission and the Federal Election Campaign Act. Quite simply, the IRS lacks the FEC's regulatory focus, bipartisan structure, and internal expertise to regulate political activity.

III. Donor privacy is an enduring and foundational First Amendment right.

Associational privacy is a lasting First Amendment right that has been repeatedly affirmed by the Supreme Court for more than six decades²⁵ and shares widespread support among Americans and the nonprofit community, regardless of political leanings.²⁶ Any serious discussion of the issues raised by this hearing must involve a strong grasp of the serious First Amendment protections at stake and Americans' resolute desire to protect their hard-earned privacy rights.

We cannot have a government of, by, and for the people if the people are not free to speak to each other and the public about the actions and choices of government officials. Though debates about citizen privacy may often appear partisan in Congress, there is no partisan divide on this topic in communities around the country. Nonprofits and the Americans who support them may disagree sharply on various policy issues, but they are united in agreement on protecting their privacy. **The**

²⁴ Staff Report, "Making Sure Targeting Never Happens: Getting Politics Out of the IRS and Other Solutions," U.S. House of Representatives Committee on Oversight and Government Reform. Available at: <https://oversight.house.gov/wp-content/uploads/2014/07/2014-07-29-Getting-Politics-Out-of-the-IRS-and-Other-Solutions.pdf> (July 29, 2014) (emphasis added).

²⁵ Prominent Supreme Court cases supporting a right to maintain privacy in one's affiliations and memberships include, but are not limited to, *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958) (holding unconstitutional a demand by government officials for the membership list of a nonprofit organization); *Bates v. City of Little Rock*, 361 U.S. 516 (1960) (holding unconstitutional a city tax ordinance requiring nonprofit groups to publicly disclose donors); *Talley v. California*, 362 U.S. 60 (1960) (holding facially unconstitutional a city ordinance requiring handbills to identify financial supporters); *Shelton v. Tucker*, 364 U.S. 479 (1960) (holding facially unconstitutional a state requirement that public school teachers list all organizations to which they belonged or contributed to in the past five years, even though the list was not public); and *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021) (holding facially unconstitutional a California regulation requiring charities and other nonprofits to submit an annual list of donors to state officials).

²⁶ See, e.g., "Free speech case attracts support from nearly 300 diverse groups," Americans for Prosperity Foundation. Available at: <https://americansforprosperity.org/wp-content/uploads/2021/04/AFPF-v-Becerra-Amici.pdf> (Apr. 2021).

logic is simple: A threat to the privacy of one organization or cause is a threat to that right for all others. Privacy rights are not guaranteed in a vacuum.

While donors to candidates and political committees are required to be publicly disclosed, Americans generally possess strong First Amendment rights to keep their beliefs and affiliations private if they so choose. The Supreme Court has repeatedly emphasized the importance of limiting the reach of laws that mandate donor disclosure because of the chilling effect this policy has on freedom of speech. Individuals may legitimately fear any number of damaging consequences from disclosure, including harassment, adverse governmental action, and reprisals by an employer, neighbor, or community member. Or they may simply prefer not to have their affiliations disclosed publicly – or subjected to the possibility of disclosure – for a variety of reasons rooted in religious practice, modesty, or a desire to avoid unwanted solicitations. For nonprofits, privacy is especially important to organizations that challenge the practices and policies of the very government officials that seek the identities of their members and supporters.

Every American has a First Amendment right to support causes he or she believes in without fear of harassment and intimidation, regardless of their beliefs. Laws that invade Americans' privacy and chill their participation in public life do not belong in any democracy, let alone the United States. In today's highly charged political climate, Americans are increasingly concerned about their private giving being made public and weaponized against them by those who disagree with their views.²⁷ Unfortunately, their concerns are well-founded, thanks to a growing push for unconstitutional and harmful disclosures in Congress, at federal agencies, and in states around the country.²⁸ Efforts to force nonprofits to disclose their membership or donor information are among today's leading threats to the First Amendment rights to freely speak, publish, and support groups that advocate for causes supported by Americans across the country and the ideological spectrum.

Sadly, it is easy to imagine an endless wave of targeting and harassment campaigns if nonprofit donor information is routinely published in a searchable government database. The First Amendment would effectively be a dead letter, as Americans would sacrifice their free speech rights to preserve their privacy and save themselves from lost employment, physical harm, and other forms of harassment and intimidation.

* * *

²⁷ See, e.g., Emily Ekins, "Poll: 62% of Americans Say They Have Political Views They're Afraid to Share," Cato Institute. Available at: <https://www.cato.org/survey-reports/poll-62-americans-say-they-have-political-views-theyre-afraid-share> (July 22, 2020); Julia Manchester, "64 percent view 'cancel culture' as threat to freedom: poll," *The Hill*. Available at: <https://thehill.com/homenews/campaign/545387-64-percent-say-they-view-cancel-culture-as-a-threat-to-their-freedom-poll/> (Mar. 29, 2021); and The Editorial Board, "America Has a Free Speech Problem," *The New York Times*. Available at: <https://www.nytimes.com/2022/03/18/opinion/cancel-culture-free-speech-poll.html> (Mar. 18, 2022).

²⁸ In Congress, see, e.g., Eric Wang, "Analysis of H.R. 1 (Part One): 'For the People Act' Is Replete with Provisions for the Politicians," Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2021/02/2021-02-22_IFS-Analysis_HR-1_DISCLOSE-Honest-Ads-And-Stand-By-Every-Ad.pdf (Feb. 22, 2021) and "The AMICUS Act Is an Assault on First Amendment Rights," People United for Privacy. Available at: <https://unitedforprivacy.com/the-amicus-act-is-an-assault-on-first-amendment-rights/> (July 13, 2023). At the state level, see, e.g., Luke Wachob, "More Bills Threatening Citizen Privacy Bite the Dust," People United for Privacy. Available at: <https://unitedforprivacy.com/more-bills-threatening-citizen-privacy-bite-the-dust/> (Feb. 23, 2023); Luke Wachob, "Virginia Holds Firm on Personal Privacy," People United for Privacy. Available at: <https://unitedforprivacy.com/virginia-holds-firm-on-personal-privacy/> (Mar. 27, 2023); Luke Wachob, "New Mexico House Rejects Anti-Privacy Bill Amid Ongoing Lawsuit," People United for Privacy. Available at: <https://unitedforprivacy.com/new-mexico-house-rejects-anti-privacy-bill-amid-ongoing-lawsuit/> (Apr. 26, 2023); and Luke Wachob, "Has New Jersey Learned Its Lesson on Nonprofit Donor Privacy?" People United for Privacy. Available at: <https://unitedforprivacy.com/has-new-jersey-learned-its-lesson-on-nonprofit-donor-privacy/> (May 2, 2023).

The growth of the nonprofit sector should be celebrated as an indication of increased civic engagement. In a democracy, civil society groups *should* impact the social and political landscape. Nevertheless, nonprofits continue to play a very limited role in elections, and concerns about foreign donors using tax-exempt entities to influence American politics remain largely unfounded. **New legislation or regulations for nonprofits would inevitably affect their American supporters. Consequently, any further policing of foreign donations to charities must be undertaken with extreme caution to prevent infringements on the rights of American donors to support American nonprofits.**

While there is certainly room to improve the current regulatory environment, recent congressional attention on nonprofit activity is largely focused on increasing regulatory burdens and, as a consequence, decreasing Americans' willingness to engage. Unfortunately, such congressional attention has historically been marked by political interest in hampering the activity of specific groups. **PUPP encourages members of Congress to consider the long-term impact on nonprofits and American donors across the ideological spectrum before pursuing legislation that hands more power to federal bureaucrats within the highly sensitive realm of speech and association rights.**

Sincerely,



Heather Lauer
CEO
People United for Privacy



Matt Nese
Vice President
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asaecenter.org

December 15, 2023

The Honorable David Schweikert

Chair, Oversight Subcommittee
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Bill Pascrell

Ranking Member, Oversight Subcommittee
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

RE: Comments on 12.13.2023 Oversight Subcommittee Hearing on “Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape”

Dear Chairman Schweikert:

On behalf of the American Society of Association Executives (ASAE), which represents nearly 50,000 association professionals across more than 7,000 organizations, thank you for hosting today’s hearing to examine the “Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape.”

ASAE’s membership comprises workers in virtually every sector and employers of all kinds, specifically 501(c)(6) nonprofit trade associations and professional societies and 501(c)(3) nonprofit organizations.

ASAE is concerned about potential unintended consequences of policymaking in this area. Associations and other nonprofits are often resource-limited but are always mission driven to uniquely benefit our economy and society.

All nonprofits must adhere to guidelines set forth amid the Internal Revenue Service’s 501(c) classification system. For example, 501(c)(3)s, which include advocacy- and issue-based organizations, charitable organizations and houses of worship, among others, are flatly prohibited from engaging in political activity of any kind. All communities rely on these organizations for the essential support they provide to individuals and groups in need.

A 501(c)(4) organization can, as a Super Political Action Committee, engage heavily in political activity. Most 501(c)(4)s, however, are “social welfare” organizations that do not engage in politics in any way. There are many 501(c)(4) nonprofit associations, including in the agriculture sector. Political engagement among 501(c)(4) organizations is concentrated among a small number of actors, as “fully two-thirds of [501(c)(4)] organizations can be easily identified as not engaged in lobbying or political activities.”

More than 60,000 trade associations and professional societies¹ exist nationally and pay at least \$18 billion each year in wages². (These figures account solely for associations as employers, and not their economy-boosting efforts.)

¹ U.S. Census Bureau. IRS Data Book. North American Industry Classification System. 2020.

² U.S. Bureau of Labor Statistics. Quarterly Census of Employment and Wages, Annual Averages. 2020.



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Associations Help Create and Protect Jobs

The association community employs at least 205,000 people³. These professionals' collective efforts directly or indirectly support every employer, employee and job function in the economy. Each association exists to advance a stakeholder community, and at least one association exists within each job sector.

Associations are considered tax-exempt but still contribute to governmental revenue through federal payroll taxes, state and local unemployment taxes, real estate taxes, personal property taxes, sales and use taxes, franchise taxes, taxes on unrelated business income and taxes on lobbying activities.

Associations Educate, Train and Certify the Workforce

Associations lift our economy through education, training and professional certification. The latter is especially vital to strengthen industry excellence, create professional pathways, increase workers' earning power, foster marketplace competition and supply consumers with the best products, services and expertise.

Associations are America's leading certification providers, and, as a community, constitute the largest source of post-college education and skills training⁴. Data also show that certification builds equity and reduces gender and racial wage gaps by as much as 43 percent⁵.

Associations Conduct Events that Produce Significant Economic Activity

Major events, such as conferences, conventions and trade shows, fuel the hospitality sector and help provide associations the means to pay staff, promote stakeholders, lead communities, administer technical education and invest in essential tools and resources. The following data demonstrate a small portion of events' broad economic impact:

- The events industry generates \$330 billion each year in the U.S.⁶
- At least one-fifth of associations conduct 50 or more revenue-generating events per year⁷.
- Associations dedicate 35 percent of their budgets to conducting events, on average⁸.
- The hospitality sector employs almost 16 million workers⁹.
- Individual association events contribute tens—often hundreds—of millions of dollars to state and local economies. (*The ASAE, four-day Annual Meeting hosts 5,000 professionals and injects \$16 million into local economies over four days, on average; ASAE's 2018 Annual Meeting in Chicago delivered \$150 million in downstream economic activity nine months after the event*¹⁰.)

³ U.S. Bureau of Labor Statistics. Quarterly Census of Employment and Wages, Annual Averages. 2020.

⁴ U.S. Census Bureau. IRS Data Book. North American Industry Classification System. 2018.

⁵ University of Chicago Human Capital and Economic Opportunity Global Working Group. 2017.

⁶ Events Industry Council. Global Economic Significance of Business Events. November 2018.

⁷ ASAE Research Foundation Financial Impact Study. December 2020.

⁸ Professional Convention Management Association. 28th Annual Meetings Markey Survey. 2019.

⁹ U.S. Bureau of Labor Statistics. (Industries at a Glance: Leisure and Hospitality) 2023.

¹⁰ Choose Chicago (Chicago, Illinois Convention & Visitors Bureau) Economic Reporting. 2019.



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Associations Set Product, Service and Safety Standards

Product, service and safety standards protect and empower consumers, and associations establish critical standards for everything from children's toys to building construction—from mattresses we sleep on to food we eat. Standard-setting in the U.S. is a process historically driven by the private sector, with the government in a supporting and guiding role.

Associations Provide Essential Technical and Subject-Matter Expertise

Associations help ensure their industries and professions carry a collective voice and that all stakeholders understand the complex issues and dynamic communities with which they interact. Associations are repositories of industry- and profession-specific expertise and serve as a resource to anyone who wishes to build knowledge.

The majority of nonprofits operate legitimately and without approaching any political activity – or even policymaking. ASAE implores you to preserve the sanctity of the millions of nonprofit organizations that help strengthen our country.

Thank you for convening this important hearing, for the opportunity to provide comments and for your attention to the power of associations and their unique support to our economy and workforce. Please email Mary Kate Cunningham, CAE (mcunningham@asaecenter.org), SVP of public policy for the American Society of Association Executives, if you or your staff have questions.

Sincerely,

Michelle I. Mason, FASAE, CAE
President & CEO
ASAE: The Center for Association Leadership

CC

The Honorable Jason Smith
Chair, Committee on Ways & Means
U.S. House of Representatives

The Honorable Mike Kelly
Chair, Subcommittee on Tax Policy
Committee on Ways & Means

The Honorable Richard Neal
Ranking Member, Committee on Ways & Means
U.S. House of Representatives

The Honorable Mike Thompson
Ranking Member, Subcommittee on Tax Policy
Committee on Ways & Means

December 11, 2023

House Committee on Ways & Means
1139 Longworth House Office Building
Washington, DC 20515

RE: Hearing on the Growth of the Tax-Exempt Sector:
IRS Targeting of Conservatives Is Starting Again

Chairman Smith and Members of the Committee:

The House Ways & Means Committee (“the Committee”) is to be commended for conducting its hearings and receiving testimony and information regarding the growth of the tax-exempt sector and its impact on the American political landscape. It is important for the Committee to fully understand that the explosive growth in political activity utilizing non-profit organization (*many* of them charitable organizations prohibited from engaging in partisan campaign intervention) to change the political system of this country has been a determined, intentional, and well-funded strategy of leftist donors, leaders, and strategists for over a decade. As documented by the Capital Research Center, leftwing charitable organizations use 501c3 dollars to intervene in and influence the outcomes of elections, in violation of federal law: “*How Charities Secretly Help Win Elections*” <https://capitalresearch.org/article/report-how-charities-secretly-help-win-elections/>

Despite the false narrative propounded by attacks leveled by the likes of Sen Sheldon Whitehouse, the vast majority of political expenditures by 501c3 organizations is from the left, not the right.

Yet, the Internal Revenue Service (IRS) fails to investigate the hundreds of millions of dollars spent by leftwing ‘charitable’ organizations for political campaign purposes.

What has the IRS done to investigate the complaints filed by Center for Renewing America against Mark Zuckerberg, the Zuckerberg Foundation, the Silicone Valley Community Foundation regarding the nearly *half billion dollars* spent in the 2020 election to change the outcome of the national election that year? Complaints were filed in September 2022 with ample documentation to warrant investigation and revocation of the tax deduction no doubt enjoyed by Mark Zuckerberg and his wife for their political contributions to the Biden campaign, using their private foundation and the Silicon Valley Community Foundation to accomplish their political objectives. See <https://capitalresearch.org/article/new-irs-complaint-alleges-zuck-bucks-groups-illegal-partisanship-in-2020-election/>

Further, attached to this submission is an IRS complaint that I personally filed against the ACLU in November 2022, regarding the overt political campaign intervention in which the ACLU engaged regarding the election of Supreme Court justices in North Carolina in 2022. Attached to my complaint were the text messages that I personally started receiving just as early voting in North Carolina was starting, along with copies of the mailers that I personally received during the weeks before the 2022 general election. See the Complaint and the attachments filed with the IRS.

I filed the complaint with the IRS immediately following the election, and the complaint was acknowledged in the summer of 2023. See attached response from the IRS.

However, I have no reason to believe that the IRS is following up on my complaint, which clearly documents the political campaign intervention by the ACLU in the North Carolina supreme court elections.

Nor do I have any confidence that Mark Zuckerberg, Priscilla Chan, the Chan Zuckerberg Foundation or the Silicone Valley Community Foundation have been subjected to an IRS investigation over their collective interference with the 2020 presidential election.

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We are now seeing a repeat of the same targeting by the IRS that we experienced a decade ago: leftwing groups are allowed by the IRS to act with impunity to utilize charitable dollars for partisan campaign intervention, while conservative organizations disliked by Sen Whitehouse are *once again* being targeted by the IRS with audits and investigations that *none* of their liberal counterparts are subjected to.

As an attorney who represented many of the groups targeted by the IRS ten years ago, I can state emphatically that it was a black eye against the IRS then and will be an even greater black eye against the agency if allowed once again to target conservatives for selective enforcement of the law. The IRS seems intent upon allowing left wing organizations to utterly disregard the prohibitions on the use of charitable dollars for partisan political purposes, while yielding to the demands of a partisan, leftwing Senator to turn its attentions solely against conservative organizations with *no evidence* of campaign intervention by those organizations.

Congress must not sit by and allow this IRS targeting to, once again, rear its ugly head. The Committee must immediately undertake a review of these stirrings so reminiscent of the disgraceful misconduct of the IRS a decade ago.

If Mark Zuckerberg and the ACLU can engage in whatever activities they desire, regardless of whether those activities comply with the law, then there is no reason to continue the statutory prohibition on partisan political activities by all charitable organizations, since that will be the message the IRS is sending.

I urge the Committee to seriously investigate the actions – and inactions - of the IRS in this regard, because from where I sit, this looks like the return of the same partisan hackery by the IRS that our nation endured during the Obama administration. It should be stopped in its tracks.

Thank you.

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq.
Attorney

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<p> <input type="checkbox"/> Complete items 1, 2, and 3. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p> <p>1. Article Addressed to:</p> <p> IRS EO Classification Mail Code 4910 DAL 100 Commerce # Dallas TX 75242 </p>  <p>9590 9402 3412 7227 0364 23</p>	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>11-16-22</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center;">-MAILROOM 11 00 CON MERC DALLAS TX</p>																
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*Clara Mitchell
139 National Drive
Pinehurst NC
28374*

9590 9402 3412 7227 0364 23

Form 13909 (December 2016)		Department of the Treasury - Internal Revenue Service			
Tax-Exempt Organization Complaint (Referral)					
1. Name of referred organization American Civil Liberties Union					
Street address 125 Broad Street FL 218					
City New York	State NY	ZIP code 10004	Date of referral 11-15-2022		
2. Organization's Employer Identification Number (EIN) 13-3871360					
3. Nature of violation					
<input type="checkbox"/> Directors/Officers/Persons are using income/assets for personal gain <input type="checkbox"/> Organization is engaged in commercial, for-profit business activities <input type="checkbox"/> Income/Assets are being used to support illegal or terrorist activities <input checked="" type="checkbox"/> Organization is involved in a political campaign <input type="checkbox"/> Organization is engaged in excessive lobbying activities <input type="checkbox"/> Organization refused to disclose or provide a copy of Form 990 <input type="checkbox"/> Organization failed to report employment, income or excise tax liability properly <input type="checkbox"/> Organization failed to file required federal tax returns and forms <input type="checkbox"/> Organization engaged in deceptive or improper fundraising practices <input type="checkbox"/> Other (<i>describe</i>)					
4. Details of violation					
Name(s) of person(s) involved Anthony D. Romero, Executive Director / Deborah Archer / Chairman & Board members (attached)					
Organizational title(s) see above					
Date(s) October 19, 2022 - Nov 7, 2022		Dollar amount(s) (<i>if known</i>) Estimated: In excess of \$1 million			
Description of activities Starting on Oct 19, 2022, I received a text message to my phone (copy attached) regarding candidates for NC Supreme Court. That was the day before early voting began in NC. I then received 5 mailers (attached) between October 20, 2022 through Nov 7, 2022, and another text message on Sun Nov 6 - all soliciting my vote for the Democrats running for NC Supreme Court/ against the GOP Supreme Court nominees. All communications carried a political disclaimer: "Not authorized by any candidate or candidate's committee". This is overt partisan campaign intervention: I'm not an ACLU member or donor, these communications were solely within the days prior to an election, with candidates named.					
5. Submitter information					
Name Cleta Mitchell					
Occupation or business attorney					
Street address 139 National Drive					
City Pinehurst	State NC	ZIP code 28374	Telephone number 202.431.1950		
<input type="checkbox"/> I am concerned that I might face retaliation or retribution if my identity is disclosed					
6. Submission and documentation: The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to eoaclass@irs.gov . Disclaimer Notice: Your email submission of Form 13909 and attachments are not encrypted for security.					
Catalog Number 50814A		www.irs.gov		Form 13909 (Rev. 12-2016)	

AMERICAN CIVIL LIBERTIES UNION INC

Board of directors

as of 02/11/2022

SOURCE: Self-reported by organization

Board chair

Deborah Archer. New York University School of Law

William Aceves

Li Yun Alvarado

Deborah Archer

Ronald Chen

Ruth Colker

Cherie Dawson-Edwards

Susan Estes

Tim Fox

Michelle Goodwin

Traci Griffith

Jeffrey Hong

Donita Judge

Robert Remar

Peggy Strine

Ronald Tyler

Ron Wilson

Patrick Anderson

Bruce Barry

Jillian Brevorka

Michelle Brown-Yazzie

Frank Calabrese

Grace Chan

Leticia de la Vara

Melanie Deas

Darlene English

Nancy Fannon

Greg Hasty

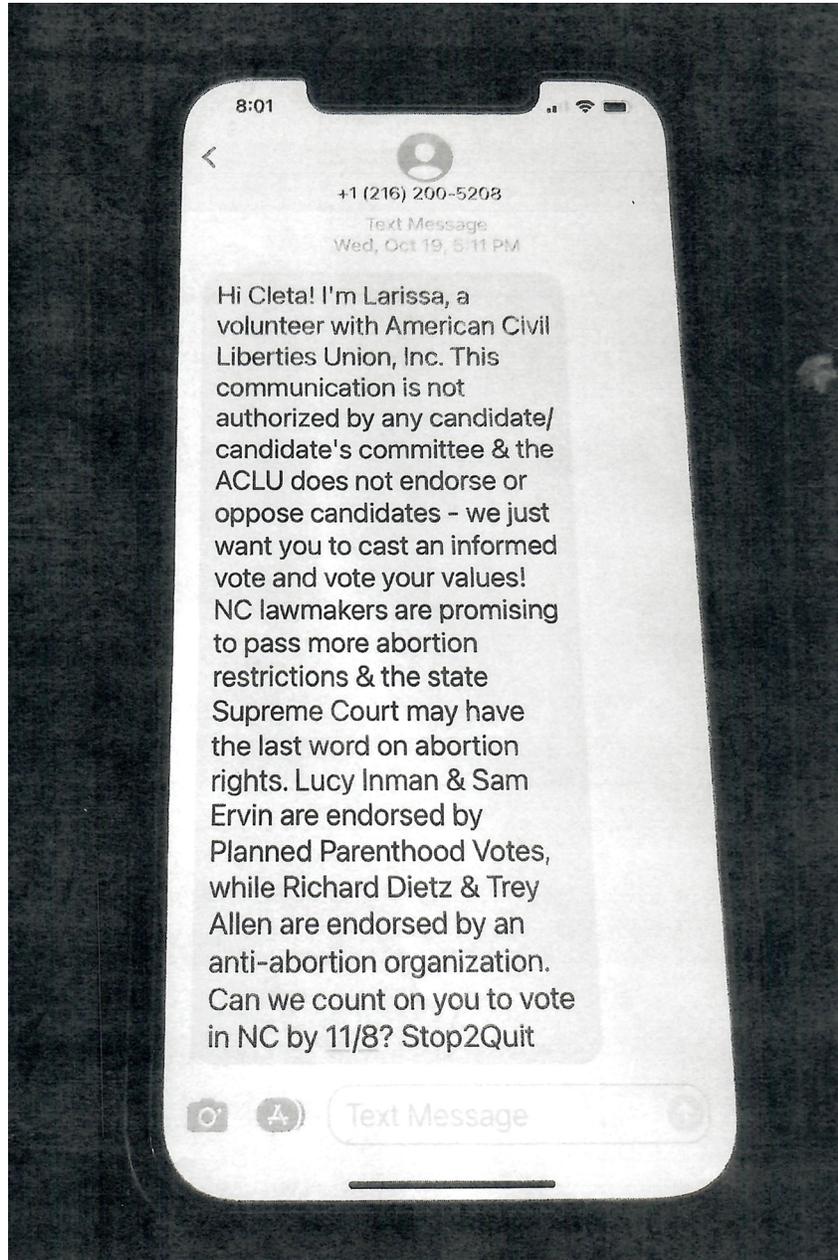
Nadia Hussain

Kim Jordan

TEXT MESSAGE TO CLETA MITCHELL'S PHONE [REDACTED]

RECEIVED WED, OCT 19, 5:11 PM

FROM +1 (216) 200-5208



160

TEXT MESSAGE TO CLETA MITCHELL'S PHONE [REDACTED]

RECEIVED SUNDAY, NOV 6, 2022 4:42 PM

FROM : +1 (541) 497-1321



6:25

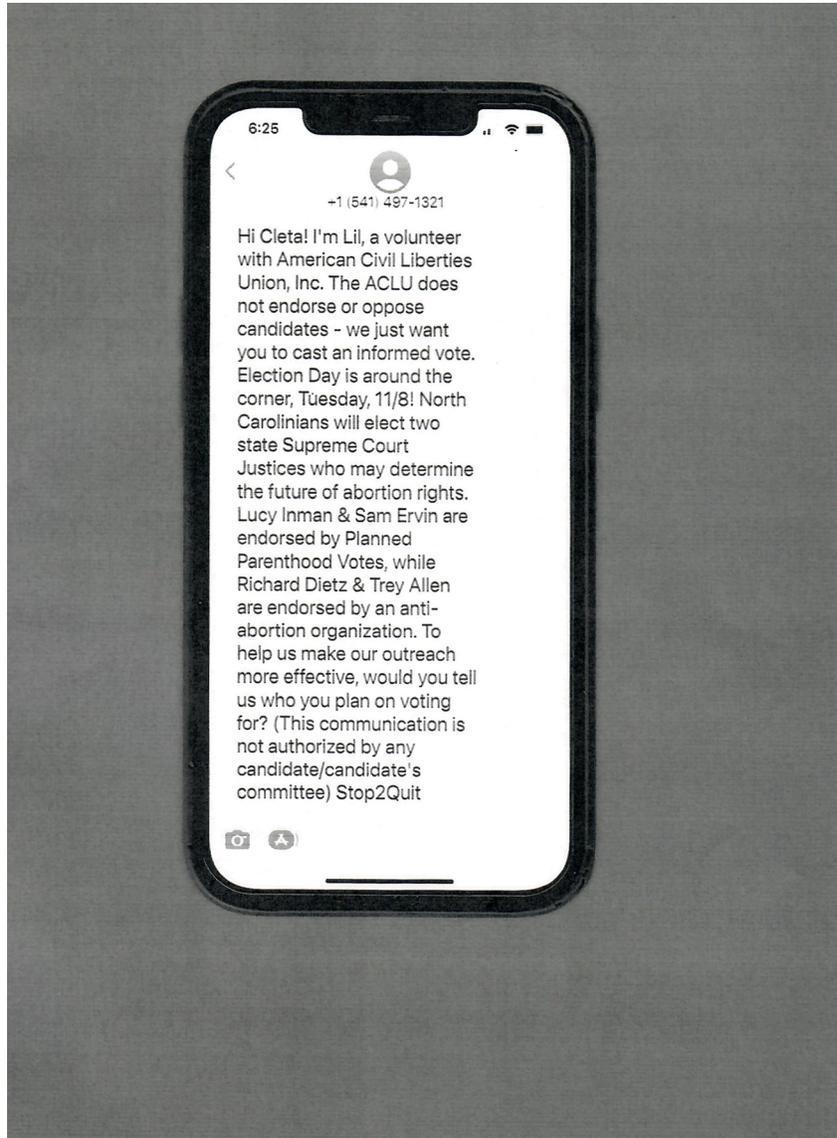


+1 (541) 497-1321

Text Message
Sunday, 11/8 PM

Hi Cleta! I'm Lil, a volunteer with American Civil Liberties Union, Inc. The ACLU does not endorse or oppose candidates - we just want you to cast an informed vote. Election Day is around the corner, Tuesday, 11/8! North Carolinians will elect two state Supreme Court Justices who may determine the future of abortion rights. Lucy Inman & Sam Ervin are endorsed by Planned Parenthood Votes, while Richard Dietz & Trey Allen are endorsed by an anti-abortion organization. To help us make our outreach more effective, would you tell us who you plan on voting for? (This communication is not authorized by any







**IT'S TIME TO PULL
BACK THE CURTAIN ON
WHERE CANDIDATES
FOR STATE SUPREME
COURT LAND ON
ABORTION RIGHTS**

**MAKE AN INFORMED DECISION
ON NOVEMBER 8**

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

WHAT HAPPENS INSIDE COURTROOMS DIRECTLY IMPACTS ABORTION RIGHTS



*In North Carolina voters can elect
state supreme court judges with clear
records on protecting civil liberties.*



0166831 P-8 P45 NC ACLU SSC03ECLLOT-H091
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139 NATIONAL DR
PINEHURST NC 28374-8166

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ACLU

175 Broad Street, Fl 18, New York, NY 10004
6575

The ACLU does not endorse or oppose candidates but voters should know judicial candidates' records on abortion rights.

LEARN ABOUT THE RECORDS OF STATE SUPREME COURT CANDIDATES

State legislative leaders are promising to pass more restrictions on abortion rights next year, which could include a ban on abortion after just 6 weeks before most people know they're pregnant. **The state supreme court may be the last word on abortion rights in North Carolina.**

Richard Dietz ▶ Endorsed by the anti-abortion organization NC Values

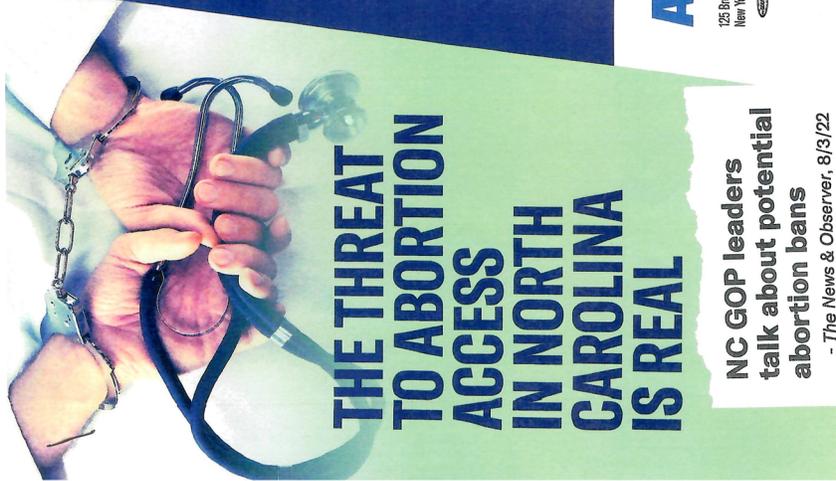
Trey Allen ▶ Endorsed by the anti-abortion organization NC Values

Lucy Inman ▶ Endorsed by Planned Parenthood

Sam Ervin IV ▶ Endorsed by Planned Parenthood

**MAKE AN INFORMED DECISION
ON NOVEMBER 8**

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THE THREAT TO ABORTION ACCESS IN NORTH CAROLINA IS REAL

NC GOP leaders talk about potential abortion bans

- The News & Observer, 8/3/22

The ACLU does not endorse or oppose candidates for office, but we do want voters to be informed about candidates' positions on civil liberties.

Where do the candidates for state supreme court land on protecting abortion access?

Richard Dietz ▶ Endorsed by the anti-abortion organization NC Values

Trey Allen ▶ Endorsed by the anti-abortion organization NC Values

Lucy Inman ▶ Endorsed by Planned Parenthood

Sam Ervin IV ▶ Endorsed by Planned Parenthood



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New York, NY 10004



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PINEHURST NC 28374-8166



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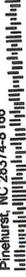
MAKE AN INFORMED DECISION ON NOVEMBER 8

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

ACLU

American Civil Liberties Union Inc
125 Broad Street
New York, NY 10004
© 800 687 6873

*****ECLLOT**H051
Clea Deatherage Mitchell
139 National Dr
Pinehurst, NC 28374-8188



NC GOP leaders talk
about potential
abortion bans

The News & Observer - 8/14/22

Abortions after 20 weeks
of pregnancy are no longer
legal in North Carolina, a
federal judge ruled

NC Health News - 9/14/22

NC legislators
20-week ab
ban to be re

AP News - 6/24/22

THE NORTH CAROLINA STATE SUPREME COURT MAY BE THE LAST LINE OF DEFENSE TO PROTECT ABORTION RIGHTS

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

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Is endorsed by the
anti-abortion group NC Values.



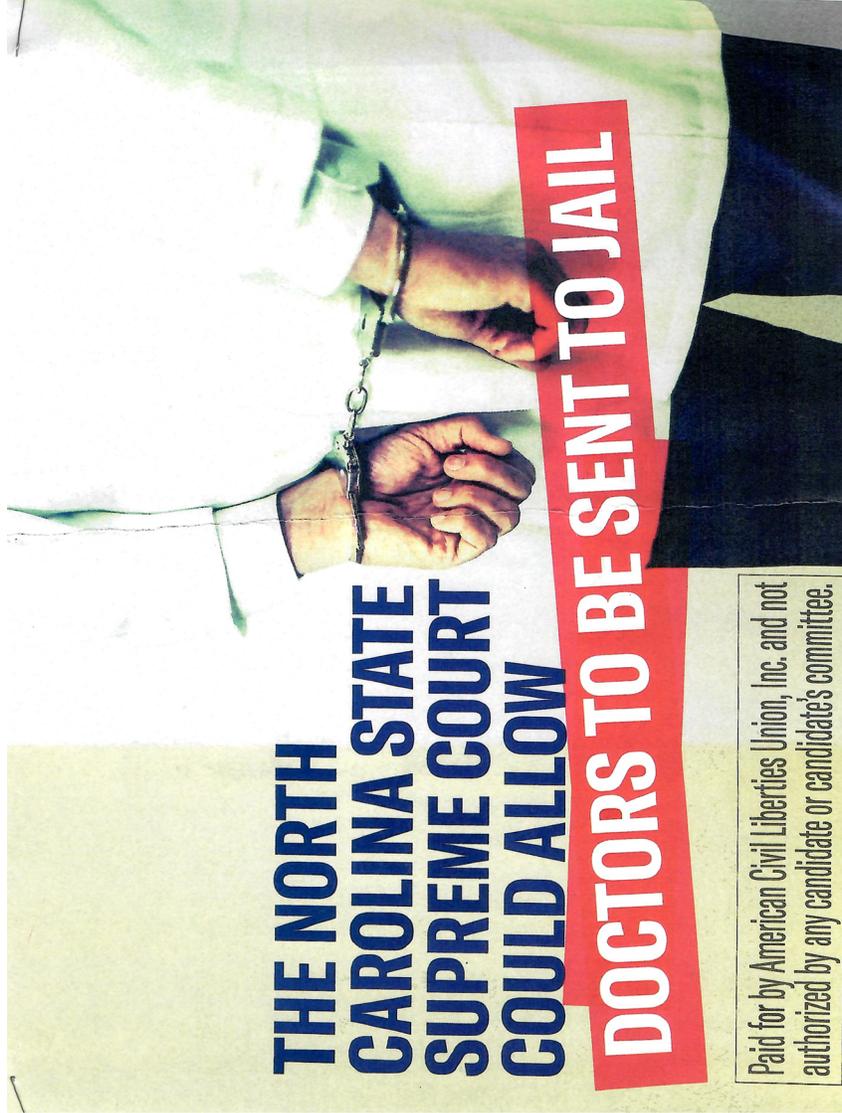
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Is endorsed by the
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STATE SUPREME COURT ELECTIONS MATTER.

To learn about more candidates running for State Supreme Court, please visit www.acluofnorthcarolina.org/faircourts.

**CAST AN INFORMED VOTE
ON NOVEMBER 8**



**THE NORTH
CAROLINA STATE
SUPREME COURT
COULD ALLOW
DOCTORS TO BE SENT TO JAIL**

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

 **Department of the Treasury**
Internal Revenue Service
Tax Exempt and Government Entities
Room 855, Mail Stop 4910 DAL
1100 Commerce Street
Dallas, TX 75242-1100

Date:
07/18/2023

CLETA MITCHELL
139 NATIONAL DR
PINEHURST, NC 28374-0000

Dear CLETA MITCHELL:

Thank you for the information you submitted on 11/16/2022. The IRS has an ongoing audit program to ensure compliance with the Internal Revenue Code (IRC). We'll consider the information you submitted in this program.

IRC Section 6103 requires that tax returns and return information must be confidential, and disclosure cannot be made except as authorized by the IRC. Therefore, we can't disclose whether we have initiated an investigation based on the information you submitted, and we can't disclose the status of any investigation. If you later have additional information you think is relevant to this matter, please attach a copy of this letter to the information and send it to the address shown above.

We appreciate your bringing this matter to our attention. If you have questions, call IRS Customer Account Services at 877-829-5500.

Sincerely,



Adrian F. Gonzalez
Director, Compliance, Planning and Classification

December 11, 2023

House Committee on Ways & Means
1139 Longworth House Office Building
Washington, DC 20515

RE: Hearing on the Growth of the Tax-Exempt Sector:
IRS Targeting of Conservatives Is Starting Again

Chairman Smith and Members of the Committee:

The House Ways & Means Committee (“the Committee”) is to be commended for conducting its hearings and receiving testimony and information regarding the growth of the tax-exempt sector and its impact on the American political landscape. It is important for the Committee to fully understand that the explosive growth in political activity utilizing non-profit organization (*many* of them charitable organizations prohibited from engaging in partisan campaign intervention) to change the political system of this country has been a determined, intentional, and well-funded strategy of leftist donors, leaders, and strategists for over a decade. As documented by the Capital Research Center, leftwing charitable organizations use 501c3 dollars to intervene in and influence the outcomes of elections, in violation of federal law: “How Charities Secretly Help Win Elections” <https://capitalresearch.org/article/report-how-charities-secretly-help-win-elections/>

Despite the false narrative propounded by attacks leveled by the likes of Sen Sheldon Whitehouse, the vast majority of political expenditures by 501c3 organizations is from the left, not the right.

Yet, the Internal Revenue Service (IRS) fails to investigate the hundreds of millions of dollars spent by leftwing ‘charitable’ organizations for political campaign purposes.

What has the IRS done to investigate the complaints filed by Center for Renewing America against Mark Zuckerberg, the Zuckerberg Foundation, the Silicone Valley Community Foundation regarding the nearly *half billion dollars* spent in the 2020 election to change the outcome of the national election that year? Complaints were filed in September 2022 with ample documentation to warrant investigation and revocation of the tax deduction no doubt enjoyed by Mark Zuckerberg and his wife for their political contributions to the Biden campaign, using their private foundation and the Silicon Valley Community Foundation to accomplish their political objectives. See <https://capitalresearch.org/article/new-irs-complaint-alleges-zuck-bucks-groups-illegal-partisanship-in-2020-election/>

Further, attached to this submission is an IRS complaint that I personally filed against the ACLU in November 2022, regarding the overt political campaign intervention in which the ACLU engaged regarding the election of Supreme Court justices in North Carolina in 2022. Attached to my complaint were the text messages that I personally started receiving just as early voting in North Carolina was starting, along with copies of the mailers that I personally received during the weeks before the 2022 general election. See the Complaint and the attachments filed with the IRS.

I filed the complaint with the IRS immediately following the election, and the complaint was acknowledged in the summer of 2023. See attached response from the IRS.

However, I have no reason to believe that the IRS is following up on my complaint, which clearly documents the political campaign intervention by the ACLU in the North Carolina supreme court elections.

Nor do I have any confidence that Mark Zuckerberg, Priscilla Chan, the Chan Zuckerberg Foundation or the Silicone Valley Community Foundation have been subjected to an IRS investigation over their collective interference with the 2020 presidential election.

Yet, the IRS in recent weeks has undertaken IRS audits of two conservative organizations *at the behest of Sen. Whitehouse*, who was one of the key instigators in the targeting of conservative, tea party groups by the IRS during the Obama Administration, lead by then Director of Exempt Organizations Lois Lerner. In late 2021, Sen. Whitehouse demanded that the IRS revoke the tax exempt status of Turning Point USA, a conservative organization, for not following COVID mandates at one of the group's events, and has subsequently pressured the IRS to punish American Accountability Foundation, the conservative research organization that obtained and published the details regarding Sen. Whitehouse's efforts to target Turning Point USA. <https://www.dailysignal.com/2022/11/30/exclusive-documents-reveal-senate-democrat-pressured-irs-doj-to-target-conservative-groups/>

We are now seeing a repeat of the same targeting by the IRS that we experienced a decade ago: leftwing groups are allowed by the IRS to act with impunity to utilize charitable dollars for partisan campaign intervention, while conservative organizations disliked by Sen Whitehouse are *once again* being targeted by the IRS with audits and investigations that *none* of their liberal counterparts are subjected to.

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Thank you.

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq.
Attorney

 **Department of the Treasury**
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Tax Exempt and Government Entities
Room 855, Mail Stop 4910 DAL
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Dallas, TX 75242-1100

Date:
07/18/2023

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Adrian F. Gonzalez
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*Clara Mitchell
139 National Drive
Pinehurst NC
28374*

9590 9402 3412 7227 0364 23

Form 13909 (December 2016)		Department of the Treasury - Internal Revenue Service Tax-Exempt Organization Complaint (Referral)		
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Street address 125 Broad Street FL 218				
City New York	State NY	ZIP code 10004	Date of referral 11-15-2022	
2. Organization's Employer Identification Number (EIN) 13-3871360				
3. Nature of violation				
<input type="checkbox"/> Directors/Officers/Persons are using income/assets for personal gain <input type="checkbox"/> Organization is engaged in commercial, for-profit business activities <input type="checkbox"/> Income/Assets are being used to support illegal or terrorist activities <input checked="" type="checkbox"/> Organization is involved in a political campaign <input type="checkbox"/> Organization is engaged in excessive lobbying activities <input type="checkbox"/> Organization refused to disclose or provide a copy of Form 990 <input type="checkbox"/> Organization failed to report employment, income or excise tax liability properly <input type="checkbox"/> Organization failed to file required federal tax returns and forms <input type="checkbox"/> Organization engaged in deceptive or improper fundraising practices <input type="checkbox"/> Other (<i>describe</i>)				
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Date(s) October 19, 2022 - Nov 7, 2022		Dollar amount(s) (<i>if known</i>) Estimated: In excess of \$1 million		
Description of activities Starting on Oct 19, 2022, I received a text message to my phone (copy attached) regarding candidates for NC Supreme Court. That was the day before early voting began in NC. I then received 5 mailers (attached) between October 20, 2022 through Nov 7, 2022, and another text message on Sun Nov 6 - all soliciting my vote for the Democrats running for NC Supreme Court/ against the GOP Supreme Court nominees. All communications carried a political disclaimer: "Not authorized by any candidate or candidate's committee". This is overt partisan campaign intervention: I'm not an ACLU member or donor, these communications were solely within the days prior to an election, with candidates named.				
5. Submitter information				
Name Cleta Mitchell				
Occupation or business attorney				
Street address 139 National Drive				
City Pinehurst	State NC	ZIP code 28374	Telephone number 202.431.1950	
<input type="checkbox"/> I am concerned that I might face retaliation or retribution if my identity is disclosed				
6. Submission and documentation: The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to eoaclass@irs.gov . Disclaimer Notice: Your email submission of Form 13909 and attachments are not encrypted for security.				

AMERICAN CIVIL LIBERTIES UNION INC

Board of directors

as of 02/11/2022

SOURCE: Self-reported by organization

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Frank Calabrese

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Leticia de la Vara

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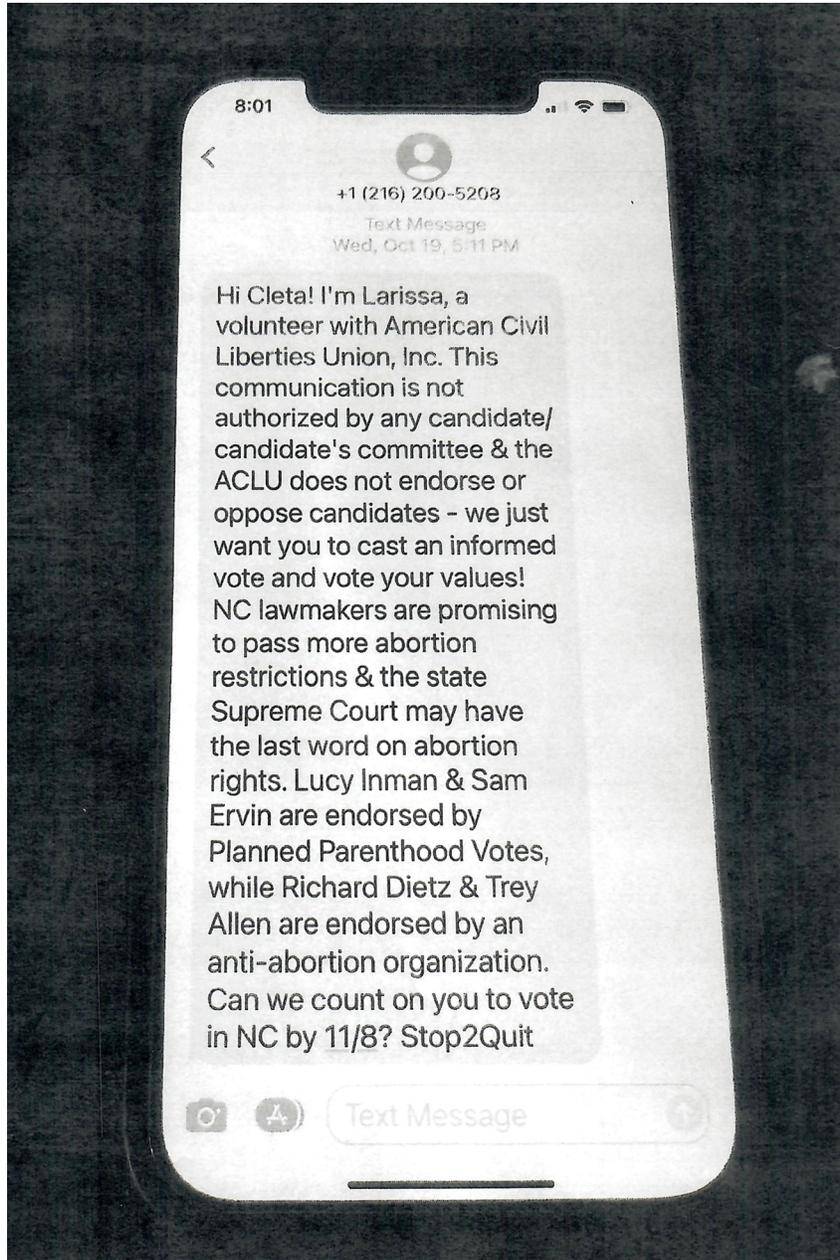
Kim Jordan

182

TEXT MESSAGE TO CLETA MITCHELL'S PHONE [REDACTED]

RECEIVED WED, OCT 19, 5:11 PM

FROM +1 (216) 200-5208



184

TEXT MESSAGE TO CLETA MITCHELL'S PHONE [REDACTED]

RECEIVED SUNDAY, NOV 6, 2022 4:42 PM

FROM : +1 (541) 497-1321







**WHERE DO THE
CANDIDATES FOR
NORTH CAROLINA
STATE SUPREME COURT
LAND ON PROTECTING
ABORTION RIGHTS?**

The ACLU does not endorse or oppose candidates for office, but we do want voters to be informed about candidates' positions on civil liberties.

State legislative leaders are promising to pass more restrictions on abortion rights next year, which could include a ban on abortion after just 6 weeks. **The state supreme court may be the last word on abortion rights in North Carolina.**

Richard Dietz ▶ Endorsed by the anti-abortion organization NC Values

Trey Allen ▶ Endorsed by the anti-abortion organization NC Values

Lucy Inman ▶ Endorsed by Planned Parenthood

Sam Ervin IV ▶ Endorsed by Planned Parenthood



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Cleta Deatherage Mitchell
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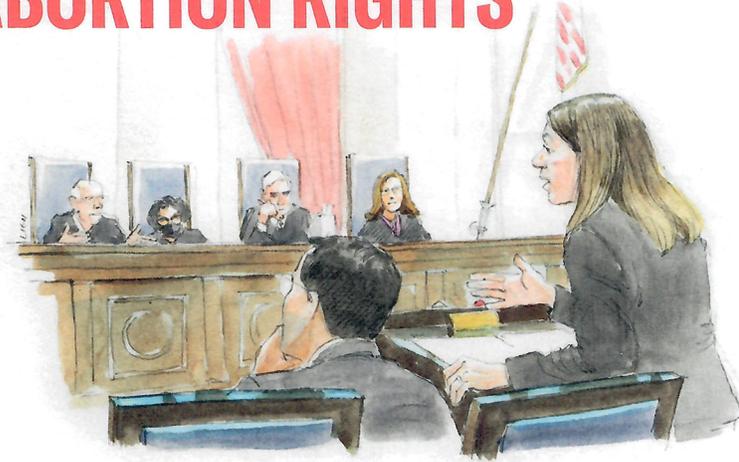


**IT'S TIME TO PULL
BACK THE CURTAIN ON
WHERE CANDIDATES
FOR STATE SUPREME
COURT LAND ON
ABORTION RIGHTS**

**MAKE AN INFORMED DECISION
ON NOVEMBER 8**

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

WHAT HAPPENS INSIDE COURTROOMS DIRECTLY IMPACTS ABORTION RIGHTS



*In North Carolina voters can elect
state supreme court judges with clear
records on protecting civil liberties.*



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6575

*The ACLU does not endorse or oppose candidates but voters should know **judicial candidates'** records on abortion rights.*

LEARN ABOUT THE RECORDS OF STATE SUPREME COURT CANDIDATES

State legislative leaders are promising to pass more restrictions on abortion rights next year, which could include a ban on abortion after just 6 weeks before most people know they're pregnant. **The state supreme court may be the last word on abortion rights in North Carolina.**

Richard Dietz ▶ Endorsed by the anti-abortion organization NC Values

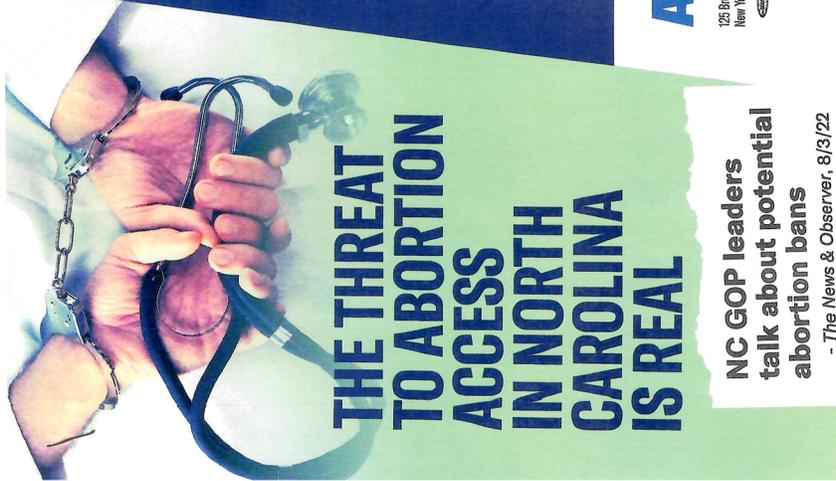
Trey Allen ▶ Endorsed by the anti-abortion organization NC Values

Lucy Inman ▶ Endorsed by Planned Parenthood

Sam Ervin IV ▶ Endorsed by Planned Parenthood

**MAKE AN INFORMED DECISION
ON NOVEMBER 8**

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THE THREAT TO ABORTION ACCESS IN NORTH CAROLINA IS REAL

NC GOP leaders talk about potential abortion bans

- The News & Observer, 8/3/22

The ACLU does not endorse or oppose candidates for office, but we do want voters to be informed about candidates' positions on civil liberties.

Where do the candidates for state supreme court land on protecting abortion access?

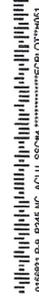
- Richard Dietz** ▶ Endorsed by the anti-abortion organization NC Values
- Trey Allen** ▶ Endorsed by the anti-abortion organization NC Values
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State leaders are promising to pass more restrictions on abortion rights next year, which could include a ban on abortion after just 6 weeks. The state supreme court may be the last word on abortion rights in North Carolina.

MAKE AN INFORMED DECISION ON NOVEMBER 8

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ACLU

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|||||

NC GOP leaders talk
about potential
abortion bans

The News & Observer - 8/14/22

Abortions after 20 weeks
of pregnancy are no longer
legal in North Carolina, a
federal judge ruled

NC Health News - 9/14/22

NC legislators
20-week ab
ban to be re

AP News - 6/24/22

THE NORTH CAROLINA STATE SUPREME COURT MAY BE THE LAST LINE OF DEFENSE TO PROTECT ABORTION RIGHTS

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.

The ACLU does not endorse or oppose candidates for office, but we do want voters to be informed about candidates' positions on civil liberties.

WHERE DO THE CANDIDATES FOR NORTH CAROLINA STATE SUPREME COURT LAND ON PROTECTING ABORTION RIGHTS?



Richard Dietz

Is endorsed by the
anti-abortion group NC Values.



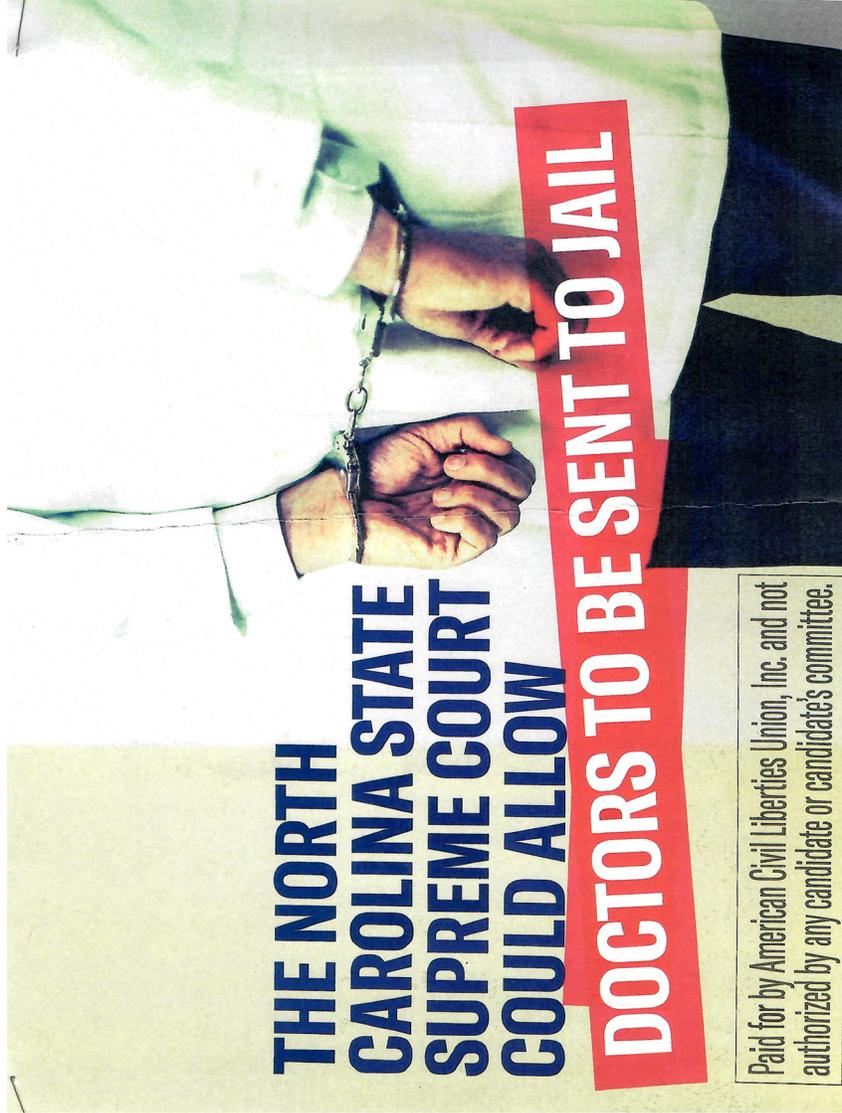
Trey Allen

Is endorsed by the
anti-abortion group NC Values.

STATE SUPREME COURT ELECTIONS MATTER.

To learn about more candidates running for State Supreme Court, please visit www.acluofnorthcarolina.org/faircourts.

**CAST AN INFORMED VOTE
ON NOVEMBER 8**



**THE NORTH
CAROLINA STATE
SUPREME COURT
COULD ALLOW
DOCTORS TO BE SENT TO JAIL**

Paid for by American Civil Liberties Union, Inc. and not authorized by any candidate or candidate's committee.



**Champions for
the public good**

Sent via email to WMSubmission@mail.house.gov.

December 12, 2023

The Honorable Jason Smith
Chair
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable David Schweikert
Chair
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard E. Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Bill Pascrell
Ranking Member
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

RE: Oversight Subcommittee Hearing on Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape, scheduled for December 13, 2023

Dear Chairs Smith and Schweikert and Ranking Members Neal and Pascrell:

In advance of the Oversight Subcommittee hearing on the Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape, I share for the hearing record the [responses of the National Council of Nonprofits \(NCN\)](#) to the August 14, 2023 [Request for Information](#) regarding perceived “political” activities of tax-exempt, nonprofit organizations. As the largest network of 501(c)(3) charitable nonprofits in the United States, we embrace this chance to highlight the core beliefs and activities of charitable organizations and to correct common misperceptions about the “why” and “how” of charitable operations. The National Council of Nonprofits champions, connects, and informs nonprofits across the country. Our network is committed to, and indeed pioneered, effective trainings and materials on nonpartisan engagement in communities to promote civic engagement.

As we did in the linked response, we emphasize up front that as people deeply engaged in America’s charitable nonprofits, we do not see systemic or widespread abuses suggested in the Chairs’ letter requesting information from the public. Still, we welcome the scrutiny and all efforts to root out bad actors seeking to politicize or exploit the charitable nonprofit sector.

The National Council of Nonprofits typically refers to 501(c)(3) organizations as “charitable nonprofits” to distinguish them from all other forms of 501(c) organizations (that we and others occasionally refer to as “non-charitable nonprofits”). Current law does not prohibit the more than 25 other categories of 501(c) non-charitable nonprofits from engaging in some partisan activities. For example, groups with tax-exempt status under 501(c)(4) (civic leagues and social welfare organizations), 501(c)(5) (labor unions), and 501(c)(6) (chambers of commerce and trade/professional associations) may participate in partisan politics; 501(c)(3) (charitable, religious, and philanthropic organizations) may not.

In this statement for the hearing record, we do not repeat the responses to issues and allegations raised in the August RFI. Rather, here we lay out four overarching principles that guide the approach and thinking of frontline charitable nonprofits. We hope Members of the Subcommittee will keep the principles in mind as you consider testimony presented at and after the December 13, 2023 Subcommittee hearing.

Overarching Principles

Overarching Principle #1: Nonpartisan, Now and Forever.

Much of the Chairs’ letter of August 14, 2023, raised questions about the politicization of the charitable nonprofit sector, whether through brazen disregard for the law, surreptitious evasion, or claims of uncertainty about what the law proscribes. There must be no doubt about the position of the charitable nonprofit community. The overwhelming majority of 501(c)(3) organizations – frontline charities, churches, and foundations – are nonpartisan in law, fact, and culture, and are committed to remaining that way to ensure their integrity and impact.

Since 1954, section 501(c)(3) of the tax code has protected charitable, faith-based, and philanthropic organizations from partisan, election-related activities. That is when Congress added the third proviso, commonly known as the Johnson Amendment, reserving tax-exempt status and the ability to receive tax-deductible charitable donations only to organizations that do “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” 26 U.S. Code § 501(c)(3).

It is considered a fundamental principle throughout the 501(c)(3) community that the longstanding Johnson Amendment must be protected.¹ For 69 years, that law has successfully shielded charitable nonprofits, houses of worship, and foundations from the rancor of divisive partisanship and schemes by the unscrupulous to profit from tax deductions for disguised political campaign contributions.

The 501(c)(3) nonprofit community stands strongly united in support of the federal law requiring nonpartisanship and in opposition to those attempting to politicize the charitable sector in their quest for partisan, personal, and financial gains.² People who donate their money to charitable, religious, and philanthropic organizations do so to support missions important to them and do not want their resources siphoned off for other purposes.³ People who donate their time to serve on governing boards want to – and should – focus on advancing the organization’s mission, not arguing with each other over which candidates for public office in local, state, and federal races up and down each ballot the organization should support (or oppose) and how much money to divert from their mission to do that.

Overarching Principle #2: All honest efforts to protect the sector from encroaching partisanship are welcome.

Because nonprofit nonpartisanship is core to charitable organizations, we welcome all efforts to root out corruption, politicization, and self-serving behavior. This help is appreciated whether from the Chairs’ August 14 letter, other engagement by and with Congress,⁴ federal

¹ The [Public Policy Agenda](#) of the National Council of Nonprofits considers the law on nonpartisanship so essential that the following commitment appears in two separate places: “Supporting and preserving the longstanding federal policy limiting the ability to receive tax-deductible charitable donations only to tax-exempt organizations that refrain from participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office.”

² Learn more about the unified position of the 501(c)(3) community – frontline charities, churches, and foundations – by reviewing the materials posted at [Protecting the Johnson Amendment and Nonprofit Nonpartisanship](#) and [Additional Resources](#).

³ When reporters get too loose with the word “nonprofit” in their stories about 501(c)(4) and 501(c)(6) (chambers of commerce) making partisan campaign expenditures (as non-charitable nonprofits are allowed to do), invariably people post comments to those articles declaring that they’ll “never give to another charity again,” noting that if they’d wanted their money to go to politics, they’d have given to the candidate directly.

⁴ As part of the ongoing effort to identify and root out fraud, the networks of the National Council of Nonprofits actively participated in the July 27, 2023, Oversight Subcommittee hearing, [The Employee Retention Tax Credit Experience: Confusion, Delays, and Fraud](#). See [Testimony of Linda M. Czipo](#) of the New Jersey Center for Nonprofits, and [Statement of the National Council of Nonprofits](#).

and state law enforcement officials,⁵ the news media,⁶ and/or the public. While the answer to any question of partisan behavior may be in the eye of the beholder (see Overarching Principle #3, below), robust scrutiny must be encouraged because the stakes are so great.

We have no knowledge about whether the allegations in a recent report from the Capital Research Center are true or not.⁷ But we do know from media accounts and visible policy actions that the allegation in the CRC report that “there is no conservative equivalent” must be subjected to scrutiny.⁸ The gutting of the IRS budget over the past decade, plus the 2019 termination of required donor disclosures to the IRS for some non-charitable nonprofits, and a Supreme Court decision and recent state laws blocking reasonable access to evidence of fraud have significantly hindered the ability of federal and state law enforcement to detect and stop bad actors seeking to funnel hidden “dark money” to influence partisan elections. Charitable nonprofits are deeply disturbed by efforts – from the left and the right – to misuse them to abuse public trust, violate the law, and stain the goodwill of charitable organizations for partisan purposes.

It cannot be stated enough that charitable nonprofits rely on public trust. Earning and retaining the public’s trust requires constant ethical leadership, consistently responsible practices, and ongoing training and reinforcement. That is why charitable organizations

⁵ See, e.g., [National Association of State Charity Officials letter](#) to Congressional leaders “express[ing] deep concern about efforts to repeal or weaken a long-standing provision in federal law – the so-called ‘Johnson Amendment’ – because, among other reasons cited in the letter, doing so “would adversely impact [the states’ law enforcement] abilities to protect the integrity of charitable assets and charitable solicitations.” Aug. 23, 2017.

⁶ In 2019, the *News Tribune* in Missouri’s capital of Jefferson City received [from the Missouri Press Foundation](#) an “honorable mention for an [editorial supporting the Johnson Amendment](#), a federal tax code ban on religious and other nonprofit organizations endorsing/opposing political candidates.” The newspaper’s editorial expressed its view: “Repeal of the Johnson Amendment would allow political organizations/donors to use churches as dark-money pipelines, because they, as 501(c)(3) organizations, don’t have to disclose their donors.” The editorial concluded, “Repealing the Johnson Amendment would be bad for politics, bad for churches and bad for America.”

⁷ [How Charities Secretly Help Win Elections](#), Parker Thayer, Capitol Research Center, Aug. 15, 2023.

⁸ One such compelling media article is one cited with favor in the Request for information: [Democrats Decried Dark Money in Politics, but Used It to Defeat Trump](#), Kenneth P. Vogel and Shane Goldmacher, *The New York Times*, Jan. 29, 2022, updated Aug. 21, 2022, which reported abuses by both political parties, finding that “15 of the most politically active nonprofit organizations that generally align with the Democratic Party spent more than \$1.5 billion in 2020 — compared to roughly \$900 million spent by a comparable sample of 15 of the most politically active groups aligned with the G.O.P.” Importantly, many of the “politically active nonprofit organizations” were 501(c)(4) organizations, not 501(c)(3) charitable nonprofits, according to their latest Form 990 filings available through GuideStar.

devote special attention to complying with all laws and behaving appropriately.⁹ And that's why it is grievously offensive when partisans try to take, and risk destroying, charitable nonprofits' well-earned trust.¹⁰

Overarching Principle #3: Conflation Breeds Confusion.

In the field of nonprofit law, words matter. By that we mean that when vague, undefined terms are bandied about, like “political advocacy” and “political nonprofits,” the public is justifiably confused. It compounds the confusion when the news media, politicians, and activists mislabel organizations using terms that suggest violations of the law that, if labeled more correctly, would lead to accuracy and understanding. Some people may see issues like abortion, immigration, and climate change as “political,” but at their core these are *public policy* issues that may or may not happen to align with specific political parties at any given time.¹¹

The distinction between the types of nonprofits also matters. Federal law has long recognized the fundamental distinction for charitable nonprofits between partisan political electioneering (which is expressly forbidden) and permissible nonprofit advocacy, which comes in many forms, including lobbying, engaging in ballot measures (such as initiatives, referenda, and public bonding issues, which the law technically treats as lobbying), and promoting public engagement through nonpartisan election-related activities. While

⁹ See generally, [Ethical Leadership for Nonprofits](#), National Council of Nonprofits, and [Ethics and Accountability for Nonprofits](#), National Council of Nonprofits. Many of our member state associations of nonprofits provide guidance on state-specific legal requirements and promote “best practices” to raise awareness about how ethical, accountable, and transparent practices – including remaining nonpartisan – make nonprofits more effective and trustworthy. See, e.g., Maryland’s [Standards for Excellence®: An Ethics and Accountability Code for the Nonprofit Sector](#) (“In promoting public participation in community affairs, charitable nonprofits must be diligent in assuring they do not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office”), and Minnesota’s [Principles and Practices for Nonprofit Excellence](#) (“501(c)(3) organizations must not take positions or spend funds to support or oppose a candidate for political office or coordinate their activities with a candidate, political party, or other organization supporting or opposing political candidates”).

¹⁰ See [Nonprofit Impact Matters](#), National Council of Nonprofits, Fall 2019, at 11: “Nonprofits can promote civic engagement such as voting, but they must always avoid endorsing or opposing any candidates for public office or using charitable assets for partisan campaign activity. Remaining nonpartisan is both the law and common sense. **People trust nonprofits as problem-solvers because they know nonprofits are working for the common good rather than a political party.**” (Emphasis added.)

¹¹ For example, the [campaign by the Catholic Church](#) of Ohio to oppose an abortion-rights amendment to the Ohio constitution last fall was within its advocacy rights, as clearly articulated by the IRS, to raise and spend money on the ballot measure because that is considered lobbying on a public policy issue rather than engaging in partisan, election-related activities.

charitable nonprofits can, do, and should advance their missions through advocacy, charitable nonprofits must remain entirely nonpartisan.

Overarching Principle #4: Charitable nonprofits and civic engagement are synonymous.

Charitable nonprofits operate in local communities across America. They feed, heal, shelter, educate, inspire, enlighten, and nurture people of every age, gender, race, and socioeconomic status, and they foster civic engagement and leadership development, drive economic growth, and strengthen the fabric of our communities. Every single day. Their particular missions may appear divergent when looking at the individual subsectors, such as the arts and culture, education, environment and animals, faith-based, health care, human services, philanthropy, and so much more. But collectively they share common broader missions of improving lives, strengthening communities, and often advancing cherished American values of individual freedoms of expression and beliefs.¹²

As Alexis de Tocqueville observed in 1840, the American spirit is manifested in “associations,” his term for what today are known as charities.¹³ As with their work on the census, social services, and community healing, charitable nonprofits have the closest connection to the people in communities, serving as trusted partners. When there is a deficit in democracy, as in large populations of eligible voters remaining unregistered and disengaged, it is logical for the groups in their communities to connect and engage.

We reject the premise that an organization must be biased and/or partisan for focusing on registering low-income people or other demographic groups. Quite the contrary, it should be a bedrock principle for all that every person eligible to vote in our democracy should be

¹² Part IV of the National Council of Nonprofits’ [2023 Public Policy Agenda](#) fully endorses civic engagement as a core focus of the operations of charitable nonprofits: “nonprofits share the responsibility to promote greater engagement of the citizenry, civic dialogue, open elections, and open government.” It is the stated commitment and priority of NCN to consistently be “[s]upporting and preserving the longstanding federal policy allowing 501(c)(3) nonprofits to engage in nonpartisan voter registration, voter education, and get-out-the-vote activities so long as organizations are not coordinating their activities with political campaigns, political parties, or political action committees.”

¹³ *Democracy in America*, Alexis de Tocqueville, 1840. It is noteworthy that de Tocqueville also appears to have been an ardent supporter of nonpartisanship: “I have a passionate love for liberty, law, and respect for rights.” he wrote. “I am neither of the revolutionary party nor of the conservative. [...] Liberty is my foremost passion.”

registered and encouraged to get to the polls.¹⁴ It's a basic civic virtue that's been espoused by chambers of commerce, faith-based groups, community leaders, and charitable nonprofits that traces back to the Athenian Oath. A major charitable nonprofit in the U.S. requires all beneficiaries of its services to register and vote when they become eligible. This is based on the organization's mission of helping to bring disadvantaged persons into the mainstream of American life, and, like paying taxes, voting is about as mainstream as a person can get. Some people need more help than others. Helping people is what charitable nonprofits do.

While we recognize that the rough and tumble of partisan politics may cause some to discourage voting by perceived opponents, we in the charitable nonprofit world continue to hold true to the long-respected virtue of full voter participation.

Conclusion

Based on NCN's extensive, near-daily involvement with charitable nonprofits over the past few decades, we have not seen and we do not believe there is systemic or widespread abuses by 501(c)(3) nonprofit organizations engaging in prohibited activities to influence partisan elections. Nonetheless, we recognize threats abound that demand vigilance and collaboration between charitable organizations, law enforcement, and policymakers.

The networks of the National Council of Nonprofits stand ready to assist the Subcommittee and its members in identifying challenges and solutions that will help ensure the charitable sector remains a safe haven from caustic, partisan politics that Congress has intended it to be and the American people want it to be. As the hearing record develops, we will submit additional information as relevant and helpful to the Subcommittee's review of the facts and law.

Respectfully submitted,

David L. Thompson
Vice President of Public Policy
National Council of Nonprofits
Dthompson@councilofnonprofits.org

¹⁴ See [Keeping Our Republic: The Roles of Charitable Nonprofits](#), *Nonprofit Champion*, July 24, 2022. See also, IRS Exempt Organization CPE texts for "[Election Year Issues](#)" (1993-N, 91 pages) and "[Political Campaign Prohibition](#)" (1996-O, 18 pages).



**Philanthropy Roundtable
Statement for the Record**

**The Growth of the Tax-Exempt Sector and the Impact
On the American Political Landscape**

Ways and Means Oversight Subcommittee Hearing

December 19, 2023

Philanthropy Roundtable is a community of donors committed to advancing our shared values of liberty, opportunity and personal responsibility through effective charitable giving. Our organization is committed to advancing excellence in philanthropy and safeguarding philanthropic freedom.

The Philanthropy Roundtable believes charitable giving is vital to a flourishing and free society. Giving time and money is how our citizens come together voluntarily to meet the challenges of our nation. The resulting civil society is woven into the very fabric of American history. Since the founding of our nation, Americans have voluntarily joined in free association to fuel social progress, bridge societal gaps and empower individuals to take ownership of their communities. From Andrew Carnegie's libraries to Susan B. Anthony's fight for women's suffrage, philanthropy has been the engine driving transformative change, often upholding our individual liberties against an ever-growing central government.

Voluntary giving and association not only empowers individuals to improve their communities and build opportunities, it provides the most effective solutions for societal challenges. Charities deliver the competition, creativity and accountability lacking in government solutions.

America's robust nonprofit sector, which employs nearly 13 million Americans, should be seen as a testament to the dynamism of our civil society – not a threat to be scrutinized. Each organization within this ecosystem, from rural food banks to global humanitarian initiatives, reflects myriad needs and aspirations of our communities. They fill niches and tackle challenges left unaddressed by traditional government solutions, often delivering innovative, cost-effective approaches demonstrably superior in specific areas like education and poverty reduction.

The Roundtable appreciates the committee's commitment to oversight, and we are vigorous advocates of enforcement within the charitable sector. Bad actors only damage the important work of philanthropic organizations. Laws governing the sector must be enforced.

We also ask the committee to recognize the vital role philanthropy plays in a thriving democracy. A strong nonprofit sector fosters civic engagement, empowers citizens to be active participants in shaping their communities and serves as a necessary check and balance on government power. This vibrant exchange of ideas and actions is the lifeblood of democracy, ensuring it remains responsive to the needs and aspirations of the people it serves. The growth of the nonprofit sector, instead of being suspicious or concerning, should be seen as an unalloyed good. New nonprofits created over recent years include everything from pregnancy support centers to churches and synagogues and substance abuse services.



For example, the past two decades have been punctuated by various and surprising events, and the creation of new nonprofits served to meet the unique challenges of each. From the unprecedented attack of Sept. 11, through the 2008-2009 financial crisis, to the COVID pandemic and resulting economic instability, Americans have been supported by a nimble nonprofit ecosystem. Now, more than ever, we urge you to support Americans as they come together to meet the needs of our communities.

While the sheer scale of the federal government seems exhaustive, it often struggles to capture the nuances and specific needs of diverse communities. Organizations operating in communities are better at addressing the specific needs of the community than a large federal government. Nonprofit organizations are nimble, aggressive and better informed about the needs of the communities they serve than bureaucrats in Washington D.C. A vigorous nonprofit sector benefits individuals, families and communities by providing education, health care, housing and food to those in need, while strengthening the fabric of American society.

Throughout U.S. history, citizens have joined in nonprofit associations to fight for everything from abolition to civil rights. With the continuous and rampant growth of government, it's more important than ever to protect the voice of citizens freely associating for causes they care about. Frequently, these organizations are the best mechanism citizens have to express their freedom of speech and provide a counterbalance to government action.

We understand the committee's concerns about abuse and we would emphasize the current rules against 501(c)(3) organizations participating in political campaigns for officials seeking public office. While 501(c)(4) organizations can participate in political campaigns it must not be the organization's primary activity. Violations of these rules can, and have, resulted in the revocation of tax-exempt status and the imposition of excise taxes, and that should continue to be the case.

Fortunately, where discrete instances of abuse have been found and highlighted by the media, these are rare in the larger scope of the nonprofit sector. A Government Accountability Office (GAO) report of IRS records from 2010 to 2017 found that only 226 cases of nonprofits potentially abusing their tax-exempt status were flagged by IRS data analytics for further review. Of those 226 cases 90 percent were investigated and resulted in no change to the tax-exempt status of the organization. Just 22 organizations faced additional IRS action. That translates to 22 cases of non-compliance over a period of eight years. For reference, there are over 1.8 million tax-exempt organizations registered and operating in the United States.

While abuse of nonprofit status is rare, we caution that policy advocacy is not political activity and should not be viewed as abuse. Robust advocacy on issues of public concern is at the heart of many nonprofit missions and should not be conflated with electioneering activities. This advocacy, especially around matters impacting the communities they serve and the causes they believe in, is a vital part of a healthy democracy and part of what makes America great.

We appreciate the committee's respect for the constitutional right to donor privacy. We applaud the understanding that the right to give anonymously empowers individuals to support causes they believe in, regardless of personal background or potential fear of reprisal. This freedom fosters diversity of thought,



fuels innovation and ensures the wellspring of charitable giving remains unpolluted by undue pressure or external influence.

This is why the Supreme Court of the United States has repeatedly upheld this right, most recently in 2021 case *Americans for Prosperity Foundation v. Bonta*. *NAACP v. Alabama*, decided in 1958, stands as a testament to this principle. When the state demanded the NAACP disclose its membership list, the Supreme Court firmly rejected the attempt, recognizing the chilling effect it would have on dissent and free association. Similarly, *AFPF v. Bonta*, decided in 2021, reaffirmed the right to donor privacy for supporters of nonprofit organizations, upholding the essential protection for charitable giving from California's government overreach. We applaud Chairman Smith and the Oversight subcommittee on their commitment to protect this right.

We hope the committee will view us as a resource for information about the sector as they explore this issue in the future.

**Comments for the Record for the
U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Oversight
Growth of the Tax-Exempt Sector and the
Impact on the American Political Landscape
Wednesday, December 13, 2023 at 2:00 PM.**

Michael Bindner
The Center for Fiscal Equity

Chairman Schweikert and Ranking Member Pascrell, thank you for the opportunity to address this issue. These comments are an updated version of those provided to the Senate Finance Subcommittee on Taxation and IRS Oversight from May of 2022. They are excerpted from those shared with the full committee in November 2021 and to the Ways and Means Oversight Subcommittee in December of 2021. I will leave the analyses of current law to the invited witnesses. My concern is improving the taxation of this sector. Our current tax reform plan is attached for context.

There are two questions for the taxation of charitable contributions. The first is where the money comes from. The second is how the outgo should be taxed.

Under our proposed asset value added tax, assets would be marked to market at initial public offering, option exercise and the first sale after inheritance, gift and donation. When assets are donated to charities and nonprofits, no tax will be paid. When these institutions sell these assets, taxes will be collected in full. Whether endowment income is taxed is an open question, although usually the asset value added tax would be levied.

Sales to employee-owned or cooperative firms will be zero rated, just as they are when a single owner sells out to an ESOP when transitioning out. We propose expanding this privilege to all asset sales. Note that as long as a business or family farm is kept in the family or sold to a cooperative, no tax is levied.

Political organizations and committees would also pay S-VAT (or I-VAT) on their payroll and their purchases would not be I-VAT exempt in the long term. These collections would be administered by state governments.

Committees that give little to candidates should not be tax exempt, as they are essentially corporations whose high salaries are essentially partnership income in disguise, without the corresponding risk. As such, they should pay the asset value added tax on such distributions.

Asset VAT collections would be to the Securities and Exchange Commission for liquid assets and states and localities for real property. States and localities would keep these proceeds.

Thank you, again, for the opportunity to add our comments to the debate. Please contact us if we can be of any assistance or contribute direct testimony.

Attachment - Tax Reform, Center for Fiscal Equity, March 24, 2023

Synergy: The President's Budget for 2024 proposes a 25% minimum tax on high incomes. Because most high income households make their money on capital gains, rather than salaries, an asset value added tax replacing capital gains taxes (both long and short term) would be set to that rate. The top rate for a subtraction VAT surtax on high incomes (wages, dividends and interest paid) would be set to 25%, as would the top rate for income surtaxes paid by very high income earners. Surtaxes collected by businesses would begin for any individual payee receiving \$75,000 from any source at a 6.25% rate and top out at 25% at all such income over \$375,000. At \$450,000, individuals would pay an additional 6.25% on the next \$75,000 with brackets increasing until a top rate of 25% on income over \$750,000. This structure assures that no one games the system by changing how income is earned to lower their tax burden.

Individual payroll taxes. A floor of \$20,000 would be instituted for paying these taxes, with a ceiling of \$75,000. This lower ceiling reduces the amount of benefits received in retirement for higher income individuals. The logic of the \$20,000 floor reflects full time work at a \$10 per hour minimum wage offered by the Republican caucus in response to proposals for a \$15 wage. The majority needs to take the deal. Doing so in relation to a floor on contributions makes adopting the minimum wage germane in the Senate for purposes of Reconciliation. The rate would be set at 6.25%.

Employer payroll taxes. Unless taxes are diverted to a personal retirement account holding voting and preferred stock in the employer, the employer levy would be replaced by a goods and receipts tax of 6.25%. Every worker who meets a minimum hour threshold would be credited for having paid into the system, regardless of wage level. All employees would be credited on an equal dollar basis, rather than as a match to their individual payroll tax. The tax rate would be adjusted to assure adequacy of benefits for all program beneficiaries.

High income Surtaxes. As above, taxes would be collected on all individual income taxes from salaries, income and dividends, which exclude business taxes filed separately, starting at \$400,00 per year. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Asset Value-Added Tax (A-VAT). A replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as high income and subtraction VAT surtaxes. There will be no requirement to hold assets for a year to use this rate. This also implies that this tax will be levied on all eligible transactions.

The 3.8% ACA-SM tax will be repealed as a separate tax, with health care funding coming through a subtraction value added tax levied on all employment and other gross profit. The 25% rate is meant to be a permanent compromise, as above. Any changes to this rate would be used to adjust subtraction VAT surtax and high income surtax rates accordingly. This rate would be negotiated on a world-wide basis to prevent venue seeking for stock trading.

Subtraction Value-Added Tax (S-VAT). Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

As above, S-VAT surtaxes are collected on all income distributed over \$75,000, with a beginning rate of 6.25%. replace income tax levies collected on the first surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I-VAT) Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability.

I-VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and I-VAT, however net income will be increased by the same percentage as the I-VAT. Inherited assets will be taxed under A-VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the I-VAT when sold or the A-VAT if invested.

I-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

Carbon Added Tax (C-AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Contact Sheet

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**Subcommittee on Oversight
Growth of the Tax-Exempt Sector and the
Impact on the American Political Landscape
Wednesday, December 13, 2023 at 2:00 PM.**

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.

