



May 28, 2024

The Honorable Jason Smith
House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
House of Representatives
372 Cannon House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal:

We, the undersigned organizations, write to express our appreciation for the House Committee on Ways and Means' interest in safeguarding elections, advancing transparency, and protecting the charitable sector from abuse. Our organizations represent tens of thousands of nonprofits, including foundations and public charities, that serve communities across the U.S. and around the world. We also write to share concerns with aspects of two pieces of legislation recently advanced by the Committee that could have significant negative consequences on the charitable community: H.R.8290 and H.R.8293.

H.R.8290 and H.R.8293 have laudable goals—but, as currently written, we believe they would reduce charitable giving, create undue burden for many charitable organizations, and require new mandatory public disclosure that could mean real danger for individuals and communities in the U.S. and around the world.

A healthy regulatory environment is critical for ensuring integrity and rooting out bad actors. Guardrails already exist to ensure 501(c)(3) organizations (1) do not engage in political campaign intervention; (2) report their substantial donors to the IRS; and (3) do not provide material support to foreign terrorist organizations. Activities that breach these guardrails are not only inappropriate and unethical but also unambiguously illegal.

We appreciate and share the Committee's concerns around election integrity and foreign interference in our political discourse. It is vital that Congress, the federal government, and the nonprofit sector do what we can to protect the sanctity of our electoral process. At the same time, any new proposals affecting our sector must recognize existing guardrails and account for the material impact of these proposals on charitable organizations and the people they serve.

Foreign Grant Reporting Act (H.R.8290)

This legislation would require all grantmaking organizations to publicly disclose the name, address, and other information for all grant recipients as part of their annual report to the Internal Revenue Service (IRS). While private foundations and some public charities already

report this information about their grantees, further mandatory disclosure from a broader swath of organizations could create significant risks for grant recipients, particularly for organizations with activities in sensitive areas.

In addition, we are concerned that the so-called “indirect contributions” provision is broad and unclear. Based on our reading of the bill, a private foundation providing general operating support to a nonprofit that then supports a foreign charity may be required to disclose this information even if the foundation had no say in the nonprofit’s decision. It is unclear how the initial grantmaker would consistently know that its grantee then subgranted to a foreign organization, particularly if the initial grant was not specifically designated for this purpose.

American Donor Privacy and Foreign Funding Transparency Act (H.R.8293)

Nonprofits already report the names and addresses of substantial donors to the IRS on a confidential basis. The proposed legislation would require organizations to publicly report aggregate information about the nationality of their donors. To obtain this information, nonprofits will need to ask additional questions from donors—even small-dollar donors giving through online platforms.

Specifically, we are concerned that nonprofits risk losing the trust of their current donors and the communities they serve should they be required to collect and report this additional data. Donors asked to report personal information beyond name and address may simply decide not to give. At a time when charitable giving [is already decreasing](#), this would further hurt charitable nonprofits and their missions.

While we appreciate the Committee’s efforts to strengthen and protect American electoral integrity, it is essential that any actions Congress takes account for the needs of and practical impact on charitable nonprofit organizations and their ability to serve the American people. Congressional actions must not unintentionally discourage charitable giving or endanger the vital work of the organizations we represent. We appreciate the opportunity to outline our concerns, and we are eager to meet with you to discuss these concerns so the charitable and philanthropic sector can continue to meet the needs of our communities today and into the future.

Signed,

Council on Foundations
Independent Sector

National Council of Nonprofits
United Philanthropy Forum

CC:
Speaker of the House Mike Johnson
House Minority Leader Hakeem Jeffries