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EXAMINING CHARITABLE GIVING AND TRENDS IN THE NONPROFIT SECTOR

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BEFORE THE

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EXAMINING CHARITABLE GIVING AND TRENDS IN THE NONPROFIT SECTOR

THURSDAY, MARCH 17, 2022

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:07 a.m., via Webex, in Room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Cantwell, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Cortez Masto, Grassley, Thune, Cassidy, Lankford, Daines, and Young.

Also present: Democratic staff: Chris Arneson, Tax Policy Advisor; Joshua Sheinkman, Staff Director; and Tiffany Smith, Chief Tax Counsel. Republican staff: Jamie Cummins, Tax Counsel; and Jeffrey Wrase, Deputy Staff Director and Chief Economist.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee will come to order. We meet this morning to discuss ways to look at promoting charitable giving in America. Our people are generous, and that's why charity is one of the key incentives that's right at the heart of the American tax code, and it is a top priority for Democrats and Republicans on this committee.

My own view is that the charitable tax deduction is a lifeline and not a loophole. There has never been more accuracy in that than there was in early 2020 when the pandemic arrived in the United States. Over the course of a few weeks in March, the pandemic wiped out a quarter-million jobs in my home State of Oregon. Our State has a workforce of just over 2 million people. In a flash, Oregon's unemployment rate jumped by 10 percentage points.

As terrible as those figures are, other States had it even worse. More than 22 million Americans lost their jobs or had their hours reduced to zero. The unemployment rate hit 14.8 percent, the highest ever recorded. That economic devastation, added to a hunger crisis, has been causing pain for American families for far too long. According to the Children's Defense Fund, prior to the pandemic more than 10 million American kids grew up in households where they just did not have enough to eat. Black and Latino families were twice as likely to be short on food. And again, that was the situation before anybody had heard of COVID–19.

The crisis exploded in 2020. Everybody remembers the images of cars stacked up for miles outside of food pantries. My good friend

Susannah Morgan is here, a long-time leader of the Oregon Food Bank. I was out there with her at those food pantries where we were putting boxes of food into those cars one after another for just, it seemed like forever.

There was an added challenge of feeding vulnerable kids, many of whom were unable to get the free lunches they rely on in school for nutrition. So, as you have probably picked up, I think we are very fortunate to have my Portland neighbor Susannah Morgan, the CEO of the Oregon Food Bank, with us. She will describe how the crisis hit Oregon families like a wrecking ball, as well as how her terrific organization was able to respond to the 1,400 pantries across Oregon and in southwest Washington.

The record shows that in 2020 in Oregon and across the country, Americans stepped up again and again when their neighbors needed help, when charitable giving reached new highs. The Federal and State Governments stepped up. Now there are some important lessons this committee ought to consider as we go forward, because there are still millions and millions of people across the country who need support.

Organizations like the Oregon Food Bank are still seeing demand at higher levels than they did in 2019. Two quick examples: first, the CARES Act, which the Congress passed in March of 2020, included a tax deduction for charitable donations of up to $300 for the vast majority of taxpayers who do not itemize their tax returns. The 2017 tax law took some of the punch out of the existing charitable deduction by greatly reducing the number of taxpayers who itemize. So the new $300 deduction helped to correct a big flaw in the 2017 law, and it helped promote giving in 2020. It was extended and expanded in 2021, but it expired on January 1st. I believe there is going to be bipartisan interest in reviving it and expanding it to promote even more giving.

Second, in addition to promoting donations, the Senate also ought to be looking at ways to help our nonprofits operate. Let's help them keep their doors open, and help keep their workers on the job. The CARES Act created an Employee Retention Tax Credit that saved a lot of jobs nationwide. It was extended and expanded in 2021. The credit was designed with parity for nonprofits in mind so that these nonprofits and their workers could certify and benefit, just like other employers.

Last year, with Senator Brown, Senator Klobuchar, and Senator Schatz, I also introduced a bill called the WORK Now Act. That would also help nonprofits grow and hire. It would create a new grant program to help nonprofits retain staff, hire the unemployed, while also supporting efforts to scale up the services that are offered.

Let me just close by saying organizations like the Oregon Food Bank—and we are lucky to have them in virtually every nook and cranny of our country—those organizations are the backbone of America. In addition to promoting charitable giving, it is a no-brainer that the Congress ought to find smart ways to help our nonprofits do their essential work as well. There is lots for the committee to discuss.

I want to thank our witnesses for joining the committee, and I also want to express my appreciation to members of the Finance

Committee. This will be the close of what amounts to a triple header for the committee this week. We began the week with a very important hearing looking at security and trade issues relating to the Indo-Pacific. Yesterday we dealt with the enormously important question of finally getting relief to Americans who are just getting crushed by these prescription drug bills. And today we are going to look at how to promote charitable giving.

So I want to thank my colleagues. That is a pretty big load. There is a lot going on this week in the United States Senate.

[The prepared statement of Chairman Wyden appears in the appendix.]

The CHAIRMAN. Let me recognize Senator Lankford.

OPENING STATEMENT OF HON. JAMES LANKFORD, A U.S. SENATOR FROM OKLAHOMA

Senator LANKFORD. Mr. Chairman, thank you. And thanks for holding this hearing. It is an extremely important issue to be able to discuss the health of our nonprofit sector and how we can support and encourage their continued work. This is an issue that is very near and dear to me. I served for more than 20 years with nonprofits. I am very passionate about the work of nonprofits. And this is also a policy issue for our Nation as well.

Let me first say "thank you" to those who serve in the nonprofit sector, both who are here and who are all over the country. You do remarkable work and are the real safety net in times of need. I tell people all the time, we really have three safety nets in America. While most folks look at government and say, that is the safety net, we really have three different safety nets. The first one is the family. The second one is the community that is dominated by churches, nonprofits—both secular and faith-based nonprofits that are out there—and then the third is government.

If the family fails, and if the local community and the nonprofits are not able to meet the need, then government is the third option there. So the key aspect is to be able to make sure all three of those safety nets stay healthy and stay able to do their task. That is what happened during COVID–19, quite frankly.

Our charities and our nonprofits rose to the occasion. They served countless Americans facing uncertainty and difficulty all across the country. But they were not immune, either, from the effects of COVID–19, based on their workforce, their operations, their organizational structure itself.

According to the Johns Hopkins Center for Civil Society Studies' 2020 Nonprofit Employment Report, during the first 3 months of the pandemic, from March through May of 2020, the nonprofit sector lost an estimated 1.6 million jobs, reducing the nonprofit sector by over 13 percent. As of the end of last year, the sector is still down nearly half a million jobs.

We know that encouraging more Americans to give will help direct additional resources to nonprofits to ensure they can continue to provide vital services to our communities. In 2020, in the CARES Act, we included a provision to allow taxpayers to take a deduction of up to $300 for charitable gifts they make. Then in December of 2020, we extended that provision so that taxpayers could deduct $300, or $600 for joint filers, for gifts given in 2021.

As a result of that, in 2020 we had a record amount of giving to nonprofits. Unfortunately, this provision expired at the end of last year. This provision is a non-itemizer charitable deduction and acts as both a lifeline to a nonprofit sector that felt the effects of COVID–19, and it also answers the call to service. It is an incentive for people to be able to give.

Now again we are reminded of how crucial these organizations are, both in local communities and internationally, as we see the nonprofit community respond to the devastating crisis in Ukraine currently. They are supporting Ukrainian citizens with care, housing, and food, and that is being done by a tremendous number of nonprofits.

Having the charitable deduction in place can incentivize even more giving at critical times like these. This provision is something I am very passionate about and have worked on for several years with a great group of partners through the introduction of the Universal Giving Pandemic Response and Recovery Act last year.

I have folks who catch me all the time and say that Americans are very generous. They will give without the tax deduction, so the tax deduction is not necessary to encourage Americans to give. I always smile at them and say, go to any nonprofit in America, pick any one of them, and ask what their highest month of giving is, and they will always smile at you and say "December." That is not because of the Christmas spirit; it is because that is the end of the tax year, and they know if they are going to get the deduction, they have to do it right now, which is also why for many nonprofits in 2020 and 2021, they had a very large number of gifts the last week of December of $300, the exact amount of that tax incentive.

I thank nonprofits for their work, and I want to make sure that we continue to be able to encourage their work as the safety net in our society. For all of you who are experts on this panel today, thank you for giving your time and your effort, both in your written testimony and the oral testimony you will give. I thank you for your steadfast dedication to your work.

Mr. Chairman, I also ask that Ranking Member Crapo's prepared statement be included in the record

The CHAIRMAN. Absolutely, we will do that. And we are all going to work, as we have done on a bipartisan basis, on these issues.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. You know, Senator Lankford—we are going to the witnesses in a moment—touches on an important point. People say, "Why do we need anything in the tax code? We are a good people. We are going to give. We are going to help."

I share that view. We are going to help, and there is no question about it. But as I indicated, I think the charitable tax deduction is a lifeline. And based on everything I have seen, it does affect the number of gifts someone can make, and the size of the gift. So that is what this debate is all about, and this committee has a strong history of being supportive of charities, and we are going to continue that.

Let me introduce our witnesses, and then we will go right to them. Our first witness is Dan Cardinali, the president and CEO of the Independent Sector, a national organization and nonprofit.

Our second witness is Susannah Morgan, the inimitable CEO of the Oregon Food Bank. Our third witness is Una Osili, who holds the Efroymson chair in philanthropy and is associate dean for research and international programs with the Indiana University Lilly Family School of Philanthropy. Our fourth witness is well-known to many on this committee, Gene Steuerle, co-founder of the Urban-Brookings Tax Policy Center of the Urban Institute's Center on Nonprofits and Philanthropy, and co-founder of ACT for Alexandria.

Thank you all for coming. We will make your prepared statements a part of the record.

Mr. Cardinali, lead us off.

STATEMENT OF DANIEL CARDINALI, PRESIDENT AND CEO, INDEPENDENT SECTOR, WASHINGTON, DC

Mr. CARDINALI. Thank you very much. Chairman Wyden, Senator Lankford, and members of the committee, thank you for holding this hearing, and for the opportunity to share our perspective today. I serve as president and CEO of Independent Sector, a national membership organization made up of nonprofits, foundations, and corporate giving programs nationwide. Our members and their networks reach into every State and district and touch every life in America.

I have spent my entire professional life working and volunteering in the charitable sector. It is clear to me that, despite the tectonic shifts we are living through, our Nation's charitable spirit is alive and well. It is also evident to me that that spirit is not fully unleashed. The charitable sector is the foundation on which our democracy is built and continues to evolve. When its foundation is weak, so is our Nation. The charitable sector is also the engine of our collective flourishing, a place where people come together to solve problems, a trusted partner for community and government leaders, and our economy's third largest employer.

For generations, policymakers have recognized the importance of this sector by providing a tax deduction for donations made to charity. I understand that by incentivizing Americans to support the charitable sector, the Nation can do more collectively beyond government and individuals going alone.

Today the charitable sector is made up of about 1.8 million organizations, 12 million professional staff, and nearly 70 million volunteers. But despite that strength, it is not immune to the ravages of domestic and global challenges. With the loss of over 1.6 million jobs during the pandemic, the sector is still struggling to recover. It lags well behind the for-profit recovery and is still down almost half a million jobs. At the same time, organizations have had to adapt to new operational challenges while facing increased demand for services.

With that, let me discuss how Congress and the charitable sector can work together to strengthen civil society and help people thrive. In 2020, Congress created a temporary charitable deduction for non-itemizers, but allowed it to expire at the end of last year. Every day that this lifeline remains expired, it is a blow to our charitable recovery and a missed opportunity for those in need. I urge you in the strongest possible terms to restore the non-itemizer charitable deduction quickly, and to significantly increase or eliminate the cap.

We are grateful to the members and the leaders of this committee who worked for the creation of that deduction and who continue to work for its restoration and expansion. Restoring and expanding the itemizer charitable deduction is essential to generating giving at a scale that our Nation actually needs. However, this is not just a conversation about dollars. The non-itemizer deduction also sends a powerful message to combat the decade-long decline in the number of Americans who give to charity at all. A charitable sector that is funded by the wealthy will look very differently and will serve America very differently.

I hope you will keep in mind the unique nature of the charitable deduction. By definition, a donor receives no direct benefit for their gift. The charitable deduction simply encourages taxpayers to give away a portion of their income to benefit others.

In addition to restoring and expanding the non-itemizer charitable deduction, I also urge you to take action on four key priorities that are addressed in my written testimony. First, I urge you to restore the Employee Retention Tax Credit, which is critical in helping nonprofits keep people employed and serving their communities. Second, I ask you to pass the Legacy IRA Act, which would expand the opportunity for seniors to make contributions to charity through their retirement accounts. Third, I ask you to increase the charitable mileage rate to be on par with the business rate, at least temporarily, which can bolster our diminishing volunteer force. Lastly, I ask you to consider a set of policy solutions that are needed to strengthen the partnership between nonprofits and the Federal Government as a whole. I would welcome the opportunity to discuss these solutions, which we call the "seat at the table" initiative, either today or in the future weeks ahead.

So, I want to thank you for your support and the opportunity to testify today. The charitable sector will continue to step up to respond to the needs of society and, with your support, will build upon this work to ensure that all people thrive.

Thank you.

[The prepared statement of Mr. Cardinali appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Cardinali.

Ms. Morgan, welcome.

STATEMENT OF SUSANNAH MORGAN, CEO, OREGON FOOD BANK, PORTLAND, OR

Ms. MORGAN. Good morning. Chairman Wyden, members of the committee, thank you for the opportunity to share my on-the-ground perspective regarding charitable giving in the nonprofit sector. My name is Susannah Morgan, and I am the CEO of Oregon Food Bank. Our network is among the largest in the country, with a central warehouse that provides resources to 21 regional food banks, which then support over 1,400 pantries, free-food markets, and meal sites across Oregon and southwest Washington.

Our mission is to end hunger and its root causes. To build communities that never know hunger, we need living-wage jobs, affordable housing and child care, and protection from discrimination.

When we hit tough times, we need government safety nets like SNAP to ensure everyone has access to food. Food banks should be the last resort when other systems have failed, and food alone will never solve hunger.

I have worked in anti-hunger efforts for 26 years across several States, and the past 2 years have been the most challenging of my career. More than 865,000 people sought emergency food assistance through the Oregon Food Bank network in 2019, nearly one in five of our neighbors. In 2020, this number rose like a tsunami to a jaw-dropping height of 1.7 million people, and in 2021 remains painfully high at over a million of our neighbors. Even with the outpouring of community support, we could not have kept food flowing without significant State and Federal action.

As we began to run out of food due to the enormous increase in demand, Governor Kate Brown came through with $1 million a week for food purchases until USDA commodities arrived through the CARES Act. Congressional aid reached communities directly through enhanced unemployment and SNAP benefits, relief payments to families, and more. The Child Tax Credit alone drove down child poverty by an incredible 41 percent and reduced food insecurity by 26 percent. Combined, these actions helped us to meet the crisis head-on and ensure that hunger did not spiral out of control.

Charitable giving incentives are an important piece of this equation as well. Let me share one extraordinary week I had, tied to decisions made by this committee. On a Monday, early in the pandemic, my colleague in The Dalles, OR called me over the moon excited because she had just located the perfect building for a regional food bank. The purchase price was $750,000. On Wednesday, a local philanthropist expressed interest in making a $1-million donation, thanks in part to tax law changes that allowed 100-percent deduction of her adjusted gross income. On Friday, she committed to fund the purchase of the building in what is surely the shortest capital campaign ever.

The work of this committee clearly influences expressions of love and generosity in our communities. And from where I sit, it is incredibly important that you consider how future tax policy changes may impact Federal revenue. Even at our scale in Oregon, for every meal we provide, SNAP provides ten. Charity organizations simply cannot replace Federal funding for the programs and resources our families need to thrive.

So, I humbly ask you to act to strengthen Federal revenue and advance policies that prevent hunger from happening. The best thing Congress can do to reduce hunger is to invest in proven solutions that support families directly. Reinstate the Child Tax Credit. Modernize SNAP to reflect the true cost of healthy food. Invest in housing and child care. Raise revenue by requiring the wealthiest corporations, individuals, and estates to pay what they owe.

And it is important that any new incentives are designed to encourage charitable giving that helps our communities now. Hunger is a crisis today. And charitable support is needed now, not tucked away for some hypothetical future. Sustain the 100-percent adjusted gross income deduction. Increase the amount private foundations must grant annually. Ensure donor-advised funds have minimal annual distributions and spend-down timelines.

As we speak, our communities face uncertainty around the impact of global events, the cost of living, and whether a new variant might emerge. Hunger remains an epidemic. This is not over. We need Congress to continue supporting our neighbors through proven policies, and I believe that together we can still emerge stronger.

It has been an honor to be with you today. Thank you for your time and attention.

[The prepared statement of Ms. Morgan appears in the appendix.]

The CHAIRMAN. Thank you very much, Ms. Morgan, and I was smiling about a couple of things. One, on the ground I have seen you in action, getting all those boxes of food out. I think you gave us the theme that everybody can connect with, and that is "never know hungry." It says it all. Thank you for all your work.

Now the third witness, Dr. Una Osili, chair in philanthropy at the Indiana University. Thanks for coming.

STATEMENT OF UNA OSILI, Ph.D., EFROYMSON CHAIR IN PHILANTHROPY AND ECONOMICS, AND ASSOCIATE DEAN FOR RESEARCH AND INTERNATIONAL PROGRAMS, LILLY FAMILY SCHOOL OF PHILANTHROPY, INDIANA UNIVERSITY, INDIANAPOLIS, IN

Dr. OSILI. Chairman Wyden, distinguished members of the committee, thank you for the opportunity to speak today about how the pandemic is influencing charitable giving. Philanthropy has long been a cornerstone of our Nation. Even before we were a Nation, many early Native American giving traditions were rooted in mutual responsibility and reciprocity. Philanthropy, both formal and informal, has played a visible role in responding to the pandemic.

During the COVID–19 era, philanthropy has been unprecedented in size, scale, and scope. Religious congregations, grassroots organizations, community foundations, and nonprofits in areas such as housing and food insecurity have demonstrated resilience and creativity in meeting urgent needs.

It is important to emphasize that charitable giving grew during the first year of the global pandemic, with 2020 being the highest year of charitable giving on record at $471 billion. Total philanthropy increased by 3.8 percent in inflation-adjusted terms. Sixty-nine percent of this total was contributed by living individuals, foundations, and charitable bequests; corporations account for the remaining 31 percent.

Research has long established that charitable giving is linked with key economic, financial, and social factors. In 2020, giving was influenced by robust end-of-the-year financial markets, increased need, and a heightened awareness of racial inequity that was fueled by the racial justice movements. Furthermore, with rising economic and health insecurity, the philanthropic sector is facing greater demand for services, and nonprofit organizations are adapting to new technology, staffing shortages, and virtual modes of engagement. In 2020, online giving increased by 21 percent.

Philanthropy also plays a vital and increasingly visible role in the global economy. The outpouring of cross-border generosity in response to the COVID–19 pandemic has been tremendous, and private donors are addressing global needs using new vehicles, including crowdfunding, cryptocurrency, and collective giving. Despite this progress, addressing humanitarian issues, including the war in Ukraine, will require an acceleration of efforts to harness private-sector resources. The 2022 Global Philanthropy Environment Index identifies obstacles to expanding these cross-border philanthropic flows. In particular, the Index found more than a third of the 91 economies that are included reported restrictive policies on cross-border giving.

While it is true that total charitable giving has been increasing during the global pandemic, the racial justice movement, and the unfolding humanitarian crisis, we must also be concerned about post-pandemic giving patterns by Americans of all income backgrounds. Despite the economic upheaval produced by COVID–19, recent data show that affluent households remain committed to charitable organizations, with 88 percent giving to charity in 2020, consistent with the 90-percent rate measured in 2017. However, recent data from the Philanthropy Panel Study, the most comprehensive study of American giving, showed that the fraction of low- and middle-income American households that contribute to charity decreased from two-thirds to half, a decline of 17 percentage points between 2000 and 2018. For younger Americans, declines in giving rates have been particularly significant.

Looking ahead, we have an opportunity to address issues of equity and efficiency among donors and nonprofits, since giving is becoming more concentrated among high-income households. A growing body of work has examined the effects of extending the charitable deduction to non-itemizers. This work indicates that a non-itemizer charitable deduction could increase both the size of charitable donations as well as induce an expansion of the number of households that give.

There are many issues to consider when investigating the impact of tax policy. Nonprofit leaders and policymakers will need to consider the effect of tax policy on charitable giving dollars, the number of households that donate, Treasury revenue, and issues of donor equity and efficiency. Making timely decisions about policies that support and enhance the longstanding norms and traditions of American generosity can help us strengthen the role of philanthropy now and in the future.

Thank you for the opportunity to testify today, and I am happy to answer any questions.

[The prepared statement of Dr. Osili appears in the appendix.]

The CHAIRMAN. We will have some momentarily.

Dr. Steuerle?

STATEMENT OF C. EUGENE STEUERLE, Ph.D., CO-FOUNDER, URBAN-BROOKINGS TAX POLICY CENTER; CENTER ON NON-PROFITS AND PHILANTHROPY, URBAN INSTITUTE; AND ACT FOR ALEXANDRIA, A COMMUNITY FOUNDATION, WASHINGTON, DC

Dr. STEUERLE. Mr. Chairman and members of the committee, it is an honor again to testify before you. The views I express in my testimony are my own and should not be attributed to the Urban Brookings Tax Policy Center, its trustees, or its funders.

While a temporary increase in the standard deduction substantially benefited many taxpayers, it contributed to a reduction in charitable tax subsidies by about 30 percent and left only about one-tenth of households taking a charitable deduction. I doubt that Congress or the public will long support such a narrowly targeted lifeline, in your own words, Senator Wyden. I view this as a great opportunity to reform incentives that strengthen the communal efforts that have long defined our Nation. And my job, as I have been requested, is to talk about some of the tradeoffs for the amount of money that Congress might be willing to put forward. You will be getting many suggestions for reforms, including mine, but my primary suggestion is to pick among them only after comparing options under a cost-effective rubric, and put gains for the community, for the charitable beneficiaries, as the major objective of the effort.

The classic distribution in revenue tables that we get when we do tax analysis does not actually measure directly what goes to the charitable beneficiaries. And there are three parties, as you said, Senator Lankford, to this transaction: the householder taxpayer, the community, and the Treasury. That is, whether you decide in favor of the $50 billion of current annual subsidies that go to charities under current law or the $70 billion that was available under current law, you need to compare options on a cost-neutral basis. Then you have your talented Joint Committee staff show the net amount of giving going to the charitable beneficiaries under different combinations. Finally, when shown any particular option, always consider alternatives that would generate more gains for the community and for charitable beneficiaries and fewer windfalls for taxpayers.

The rest of my testimony focuses primarily on four issues.

First, relative to cost, gains for charitable beneficiaries will be greatly limited by caps on deductions, and they will be enhanced through floors that limit the amount of giving to the excess of something like over 1 percent or more of AGI.

Secondly, almost all proposals for an expanded deduction provide windfalls to a group we call "switchers," those itemizers who switch to the standard deduction and then take the new charitable deduction. There is often no gain for charitable beneficiaries at all from those switches.

Third, gains for charitable beneficiaries can be further enhanced by exchanging improved compliance for a stronger incentive.

And fourth, many of the most cost-effective reforms—such as allowing deductions at the time of tax filing—take advantage of insights from behavioral science. Senator Lankford, you referred to this when you referred to people thinking about giving at the end of December. They also think about giving when they file their tax returns.

So why do caps and ceilings matter? Caps concentrate incentives onto giving that would occur anyway, while floors concentrate them among giving beyond what one would do in the absence of a tax subsidy. As one example, compare a universal deduction with and without a 1-percent floor. Using research methods commonly applied, failure to provide a floor cost Treasury $17 billion, while generating only $2 billion extra for charitable recipients and $15 billion in windfalls for taxpayers, simply because of not accepting that type of floor.

Any reform should also account for IRS's limited ability to administer hundreds of millions of charitable transactions under current outdated systems of reporting. Fortunately, this is an opportune time for Congress to create a system of electronic filing for charitable contributions. I have little doubt that third-party intermediaries can create an efficient system of reporting to IRS, and we could use the revenues that would be picked up from improved compliance to provide a higher and better incentive for charities and for the recipients of their output of goods and services.

Finally, behavioral science suggests that high bang for buck reforms that allow deductions at the time of tax filing simplify life for donors of their lottery winnings and provide matching grants to charities.

In sum, charitable deduction reform can strengthen our Nation's longstanding tradition of giving and working together to provide maximum gains for charitable beneficiaries in the community, at whatever level of subsidy Congress decides. Consider how caps significantly weaken and floors significantly strengthen the incentive provided. At the same time, we need to decrease rather than add to compliance burdens for IRS and consider how making incentives more salient can add to charitable giving.

Thank you for this opportunity to testify before you, and I would be glad to work with you on these issues in the future.

[The prepared statement of Dr. Steuerle appears in the appendix.]

The CHAIRMAN. Thank you. Let me see if I can do a couple of points quickly.

Is it correct that we are now seeing a need for assistance exceeding 2020 levels, and that each of you expect that to continue? Is that correct? Is there any dissent at the table? Does everybody agree with that? You are free to dissent. That is why we have hearings.

Mr. CARDINALI. I am not sure that I disagree. But one point that I would add to that is, that if you dig into the numbers, there have been a number of extraordinarily wealthy people making enormous gifts that have perhaps distorted the number slightly around the amount of giving. So it would be worth digging into the numbers and seeing the impact of some very large philanthropic gifts which seem atypical. And whether they will be sustained or not is a question I think we are all wondering about.

The CHAIRMAN. But on the basic proposition that the need for assistance exceeding 2020 levels, you expect that to continue with some possible ramifications for very large gifts?

Mr. CARDINALI. Yes.

The CHAIRMAN. Okay. So the second question stems from the first. Do you believe that the current donations and grants, for the most part—and let's take Mr. Cardinali's point—do you think current donations and grants are sufficient to meet the needs?

I am pretty sure you all said "no." Does anybody disagree with that?

[No response.]

The CHAIRMAN. Okay, we will put that one down as a "no." Don't be bashful, because I am absorbing your very important points.

Dr. STEUERLE. Senator, with Dr. Osili's numbers, you know, charitable giving, even at 2020 levels, is not at past peak levels as a share of our income. And as our economy has grown sixfold over the last century, our ability to increase giving—that share of giving—has not really occurred. So I think all of us believe that we could do much more as a Nation on this front.

The CHAIRMAN. Very good. So it is always important to look at both the past, because it is a guide to prologue, and to kind of weigh, as Dr. Steuerle did, the tradeoffs.

Which programs—let's just go right down the line here. We have passed novel programs to respond to the pandemic. Which programs were the most successful, based on your hard evidence? We will start with you, Mr. Cardinali.

Mr. CARDINALI. I think many of them were very effective, but I would mention three that come to mind. The first would be the Paycheck Protection Program, which protected 4.1 million jobs, according to the Johnson Center on Philanthropy, keeping front-line workers engaged during a pandemic. The second, of course, would have been the CARES Act and incentivizing giving that enabled people to reach into their pocket and incentivizing everybody to do that. Whether or not they could get out the door and volunteer, they could certainly write a check and donate. And third would be what Ms. Morgan mentioned, and what I would also agree with: the Employment Retention Tax Credit that kept employees.

The CHAIRMAN. Very good.

Programs most effective, Ms. Morgan?

Ms. MORGAN. The Child Tax Credit, Senator Wyden, which drove down child poverty and child hunger to rates I have not seen in 26 years. I have been in anti-hunger work for 26 years, and we have not ended hunger yet, and we are not stopping until we do. And so, yes, we need the charitable incentives, and we need Federal responses. This is a "both and."

The CHAIRMAN. Okay.

Professor?

Dr. OSILI. Yes, I would agree that the CARES Act overall, the PPP program, and the direct stimulus payments to households really strengthened the country's ability to withstand the pandemic. In particular, the Penn Wharton budget models estimate that the impact of these stimulus packages boosted GDP 5.5 percent.

When we think about what drives charitable giving, incentives certainly affect not just the amount that people give, but the vehicles they use and the timing of those gifts. In addition, economic factors affect their ability to give in the first place. So American households give when they have the resources, the means to give. The charitable deduction and the incentives provide that boost you could see around the timing, the amount, and the vehicle.

The CHAIRMAN. Dr. Steuerle?

Dr. STEUERLE. I would include Paycheck Protection. As a founder of the community foundation in Alexandria, I would also say even the support that went to the cities that actually came back out through our community foundation and through all the charities in Alexandria, right across the river, to support many of the efforts to provide food, shelter, clothing, and other items that have been made possible.

So it actually extends far beyond just given what is in the tax code. I suppose my one exception, Senator Wyden, is I think most of these provisions were good as temporary provisions, but such items as the $300 deduction—I think most estimates suggest that it does not provide much of an incentive in the long run because it is not applied at the margin. People give more than $300; it is a windfall in the form of a tax break. I think it was a good symbol during the crisis, but as a long-term project, just like Paycheck Protection, I think we have to look further.

The CHAIRMAN. I have long watched your scholarship on this and share much of your thinking. This was particularly important because we wanted to give more people an opportunity to be involved. That was the point.

The 2017 tax bill said, yes, you've got opportunities if you are really up at the top of the economic system. The whole point of the $300 effort was to get more people mobilized at the grassroots and talking about why they were helping our wonderful Oregon Food Bank. We will continue this discussion.

Also, Dr. Steuerle, I would like you to flesh out for the Finance staff how you envision this set of electronic improvements as it relates to charitable giving. Because we know the IRS is in the Dark Ages with respect to technology. The comprehensive budget that passed last week is going to give them hundreds of millions of dollars more. So we are moving in the right direction. But if you have some ideas that are doable and cost-effective, I am all ears.

Thank you all, and let's go to Senator Lankford.

Senator LANKFORD. Thank you. As I mentioned before, and several of you have mentioned, this is something that I think is extremely important that we deal with—the non-itemizer charitable deduction—to incentivize more donations on the lower end and to be able to keep that going. The data, I think, also supports this, and we have talked a little bit about this, but I want to raise a couple of things in some stories here.

Compared to 2019, after the $300 deduction was enacted in the CARES Act, gifts of less than $250 grew by 15 percent in 2020. So, contrary to most examples of growth in giving during the times of crisis typically, the growth in these small gifts outpaced the growth in the larger contributions by 1.5 times.

When compared to 2019, there was a 28-percent increase in $300 donations on the final day of 2020. That is the exact amount of actually what the donation amount was. So there is obviously some connection there, and I wonder what that would have been if the number would have been higher for that time period as well.

According to the Fundraising Effectiveness Project comparing 2019 to 2020, the overall number of donors grew by 7 percent in 2020. New donors increased by 18 percent, and overall giving increased by over 10 percent. On top of that, based on their analysis of over $46 billion in charitable giving, the Blackbaud Institute estimates that charitable giving in the U.S. grew by 9 percent in 2021.

So how do we keep this going? And how do we continue to be able to fan the flame of this? I will tell you, it is significant, and we have seen it be significant. Let me just give you a few stories from my State of Oklahoma.

Amy from Family and Children's Services was writing in and said, "When the new tax laws were amended during the pandemic, it actually gave me more incentive to dig deeper because I knew that not only would the nonprofit organizations get the proceeds they needed, but I also got something in return to help my spending that was not available to me prior to this. It was a win/win."

Tom, who is the Chief Development Officer at Family and Children's Services in Tulsa said, "I often get asked as a fundraiser for nonprofit, 'How is annual giving going? And have we seen a decline since we were not able to do in-person events?' " He said, "In fact, we saw a 17-percent increase in first-time donors, and amongst donors 40 years or younger. A few of them said that the tax deduction made them more generous, and they were able to do something even more than what they thought they could before because of that advantage."

Melissa, who is the director of community engagement at ReMerge in Oklahoma City, said, "Last year we had 10 gifts of $300. Three of those donors were new donors who stated that the tax credit had impacted their decision and the size of their gift."

Angie, who is the chief development and marketing officer at Sunbeam Family Services, great group, said, "When universal tax deduction was enacted, Sunbeam experienced an increase both in total donations and the average donation amount."

So we have seen not only just those stories, but a lot of other evidence. I have worked to be able to expand this. And I think we can further support our nonprofits. Several colleagues and I have joined together to expand this. Under our bill, taxpayers would be able to do a charitable deduction of a third of the standard deduction—just over $4,000 for single filers and $8,000 for joint filers.

This bill ensures that every American who gives—not just those with high incomes and those who itemize on their tax returns—but others are able to give and to be able to give at larger amounts, and they are incentivized to do that.

I do want to thank my fellow sponsors—Senators Coons, Lee, Shaheen, Tim Scott, Klobuchar, Collins, Cortez Masto—as well as other members of this committee who have co-sponsored the bill—Senators Stabenow, Hassan, and Brown—for their support.

We do have a lot of support from the community on this bill as well. I have letters here with me today representing thousands of organizations, in every State. We have one letter that a coalition has signed with 1,500 nonprofits that have signed on, and another with hundreds of local United Ways.

Mr. Chairman, I believe these letters and others have already been submitted for the record, but I would ask that a few other letters that have also come in today be included in the record as well. The Oklahoma Center for Nonprofits, Faith and Giving, the Jewish Federations of North America, the National Philanthropic Trust, the National Council on Nonprofits, the Philanthropy Roundtable, and Philanthropy Southwest have all written in in addition to that.

The CHAIRMAN. Without objection, they will go into the record now.

[The letters appear in the appendix beginning on p. 48.]

Senator LANKFORD. So now that I have completely spoiled all of my time for questions making a statement, I would love to be able to visit with all of you at great length on this, but the chairman is an ogre on time, so I am going to have to be attentive on this.

Mr. Cardinali, I do want to talk about how the deduction influences the behavior of non-itemizers. What have you seen on that?

Mr. CARDINALI. Well, first of all, thank you for your leadership. And I think Independent Sector stands squarely behind pretty much everything you just said.

The one additional item that is important is, by expanding the non-itemizer deduction, we actually incentivized people to participate in their community. It expands the number of donors. And we know once a donor starts, there is a high probability that they will continue to give. So we will build out a pipeline, and it links to volunteerism. It gets them out into their community, so they are donating, they are volunteering, and that builds civic trust.

So, 100 percent behind your points.

Senator LANKFORD. Thank you. I would only mention one other thing. Mr. Cardinali earlier said that, by definition, when you are giving like this, it cannot be beneficial to you. I would say, when people give to nonprofits, it is very beneficial to them and the community, and to them personally. The old "it's better to give than to receive" definitely kicks in when you are giving.

The CHAIRMAN. It lifts the spirits and makes you feel you are helping the community. Well said.

Senator Grassley?

Senator GRASSLEY. I thought you had a Democrat to go ahead of me.

The CHAIRMAN. We have you up at this time. Go ahead.

Senator GRASSLEY. I am very happy to go.

Ms. Morgan, I am going to start with you. This is a quote from your testimony: "Hunger is a crisis today, and charitable support is needed now, not tucked away for some hypothetical future," end of quote. I am sure that is a statement working charities in Iowa and across our country would agree with.

Today there are over a trillion dollars sitting in private foundations and assets held by donor-advised funds totaling $160 billion, a 360-percent increase since 2006.

Senator King and I have introduced the Accelerating Charitable Efforts Act, which is focused on ensuring that tax-deductible contributions to a foundation, or a donor-advised fund, reach their ultimate charitable destination within a reasonable period of time.

Could you elaborate on why it is important for working charities like yours not to have hundreds of billions of dollars of charity money effectively sitting on the sidelines?

Ms. MORGAN. Thank you for the opportunity, Senator Grassley. The Oregon Food Bank has been greatly impacted by supply chain disruptions during the pandemic. So, prior to the pandemic, 865,000 people—that is one in five people in Oregon and southwest Washington—asked for assistance, and we relied heavily on donations from growers, food distributors, and food manufacturers to meet the need. Supply chain disruptions have meant that donations are down well over 50 percent, because they cannot give us what they do not have in excess. So we are purchasing food at a higher rate than we have ever purchased before.

So, we have more people who need food assistance, and fewer resources in order to meet that food assistance. So, when I hear of wealthy folks tucking money away in hopes that it will make the future better, my response is, make the future better right now for my neighbors who are struggling to put food on the table.

Senator GRASSLEY. Thank you.

Mr. Cardinali, I have a good history of working with your organization, probably a long time before you ever got involved in it, but they have helped me a lot during the early part of this century with a lot of investigations and reforms that I have done. We passed some legislation, but I also recall from the 2005–2007 era that you put out some good work that helped us do probably even more than what we had intended to do by legislation. So I appreciate the Independent Sector's attention to the importance of robust self-regulation and oversight in fostering a healthy nonprofit sector. As I indicated before—I want to repeat—it was a pleasure working with your organization during my tenure as chairman of this committee in the 2000s to improve nonprofit governance and accountability.

Could you elaborate on what the Independent Sector has been doing to foster good governance and self-regulation of the nonprofit sector since the release of that report, "Report on Good Governance and Ethical Practices"?

Mr. CARDINALI. Thank you for the partnership, and it has been transformative in striking a balance. We think that is very healthy for a sector that has two components, one being self-regulation, where those principles that you referred to are still an extremely downloaded and used resource across the sector—setting a standard of good behavior, ethical governance, use of appropriate fund raising—and a set of tools that allow people and boards to make good decisions about difficult challenges in a changing and dynamic world. But as you may recall well, that was also designed with appropriate government oversight. So it is actually a two-part tension: self-regulation and government.

So we, of course, denounce bad actors that take advantage of the sector, but that is a minority of folks that often make the news. But we do need appropriate support from the IRS and the exempt organizations office there to be able to lean into when there are bad actors, so that we do not diminish public trust in America.

We know that right now, every year we measure the trust that the general population has for nonprofits, and it is quite high—

higher than government or business. So protecting that trust through striking the tension of appropriate self-regulation and appropriate government oversight is important.

I do want to be clear. I am not calling for additional government oversight, just appropriate government oversight.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Thank you, Senator Grassley.

I believe next is Senator Carper.

Senator CARPER. Senator Carper is here. Good morning, Mr. Chairman. Good morning, colleagues and witnesses.

The CHAIRMAN. Senator Carper, turn the power up. Is it at our end?

Senator CARPER. I think it is at your end.

The CHAIRMAN. That is perfect.

Senator CARPER. Can you hear me?

The CHAIRMAN. Yes.

Senator CARPER. All right; thank you. First of all, thank you for holding this very, very important hearing, and a timely hearing. My wife and I are getting ready to submit all kind of tax-related materials to our CPA, so we are reminded that we should be looking into our charitable giving. So this is actually something that is very, very real in our lives, and I know others' too. But I want to thank each of our witnesses for your willingness to testify before the committee today.

Nonprofit organizations and charities are an invaluable part of the communities in Delaware, and I know that is true across the country. They provide critical support for some of the most vulnerable among us. Throughout the coronavirus pandemic, nonprofits in Delaware and the other 49 States throughout America have risen to the occasion to help their neighbors keep a roof over their heads, put food on the table, get vaccinated, and a whole lot more.

When we support our local nonprofits, we show our commitment to building a strong community. Having said that, research has found that as time goes by, fewer households are giving to charity. I think that has been mentioned a time or two already today. In fact, studies have shown that only about half of Americans are donating to charities these days. That is down from about two out of three a couple of decades ago. And since then—as I understand it—donations from lower- and middle-income households have declined. Charitable giving overall remains pretty much stable, but the increases are concentrated among higher-income households, which is where you would hope we would find most of the giving that takes place.

A question—this will be for everybody on the panel—but could you take a couple of minutes to share your thoughts with us on why we are witnessing this decline in widespread charitable giving, what steps we ought to consider taking in order to reverse this trend, at the same time making sure that those who are capable of giving continue to do so? Please, in any order you would like to go.

Dr. OSILI. I can start. At the IU Lilly Family School of Philanthropy, we've been tracking the share of Americans who give to charitable organizations for many years. At the beginning of the 21st century, two-thirds of Americans gave, and this was consistent over time, until the time of the Great Recession of 2008. At that time we saw that number begin to decline. It's important to note that when the economy recovered, following the Great Recession, we did not see that number go up again. In fact, it has continued to decline, and in the most recent analysis in 2018, for the very first time, less than half of Americans gave. It's also worth noting that among younger Americans, that decline has been even more pronounced. In fact, for the overall public—that figure declined 17 percentage points—but for young Americans it's more than a 20-percent decline at the time of the Great Recession. So, with that concept——

Senator CARPER. How do you explain that?

Dr. OSILI. How do we explain that?

Senator CARPER. Yes.

Dr. OSILI. I'm sorry. There are several factors to look at. We have investigated the world of economic factors, that changes in income, employment, and wealth, account for about a third of that decline. The other half or so of the change is due to a number of other factors. First, we have already heard about trust levels: declining levels of trust, social capital. But also religious participation has been shown to be linked, and not just to religious congregations, but also to giving more broadly. So, looking ahead, as we continue to build this strong tradition of American generosity, we need to make sure that it's broad-based across income and age groups. It's important to recognize that economic factors play a role, and certainly looking at the role that the charitable deduction plays, not just in providing an incentive and sending a strong signal about the government's commitment to the private provision of public goods, but also the other factors. We've heard about what role trust plays, but also what the charitable sector can do to continue to build the relationships and engagements and the sense of commitment that Americans have.

Senator CARPER. Dr. Osili, I am about to run out of time. I want to be able to hear from at least one other witness. Thank you for all that you shared with us.

Susannah Morgan, just a few thoughts for us from the Oregon Food Bank. The Delaware Food Bank sends their best to you and your team. Go ahead, Susannah.

Ms. MORGAN. Thank you. I do not have academic data, but what I will tell you is, the Oregon Food Bank had 40,000 new donors in the last 2 years. So we have gone from a database of 30,000 to a database of 70,000 donors in the last 2 years.

So a combination of the environmental factors in which one in four people in Oregon were experiencing hunger, so everyone knew someone who was needing food assistance—this was not "them," this was "us." And hunger was impacting "us." A combination of an outpouring of love—because that is really what community donations are, it is love in the form of a check for our community—and what the Federal Government did to support trust and to authorize and provide credibility to the nonprofit community through the tax code.

Senator CARPER. Well, that is great. I think my time has expired. I wish I had time to ask others, but thank you all for joining us today.

The CHAIRMAN. I thank my colleague.

Senator Cortez Masto?

Senator CORTEZ MASTO. Thank you, Mr. Chair. And I want to say "thank you" to the Ranking Member and Senator Lankford for co-chairing this important committee with you. I also cannot thank you enough for just calling the hearing today to highlight what we see here: the good bipartisan work that Congress can do when we work together to be able to deliver for all Americans, including many of the nonprofits across the country and here today.

As we know, the CARES Act established that charitable deduction for non-itemizers in 2020, and the COVID relief package passed in December of 2020 added an extension of the $300 charitable deduction for 2021. So I am proud to have worked with my colleagues on this committee, Senators Lankford and Scott, to co-lead the bipartisan Universal Giving Pandemic Response Recovery Act to expand and extend a tax deduction for charitable giving. The bill would build on the bipartisan work and ensure that Nevadans who donate to charities, religious organizations, and other nonprofits are able to deduct their contributions from their Federal taxes.

This legislation recognizes the generous donations many Americans have given to these lifesaving organizations, and incentivizes further charitable giving during the coronavirus pandemic. I know firsthand that during the height of the challenging time of COVID–19, nonprofits, community organizations, and religious organizations have provided immeasurable relief and support to struggling families in Nevada. Places like Betty's Village, an inclusive residential housing community for people of diverse abilities, was opened by Opportunity Village at the height of the pandemic. And I fought for the ability of nonprofits to qualify for the PPP loans during the pandemic. And because of that, my office was able to help them secure that loan and help provide housing in the community for people of diverse abilities.

By passing the Universal Giving Pandemic Response Recovery Act, we can ensure that nonprofits like Betty's Village can sustain the critical services they provide beyond the pandemic. So, thank you again to our bipartisan partners in the Finance Committee—Senators Lankford, Scott, Brown, Hassan, and Stabenow—for working on this important legislation.

Let me start with Ms. Morgan. I so appreciate what you do. I am a big supporter of our Northern Nevada Food Bank in Reno, and Three Square, and all of the food pantries across the country, so thank you for your commitment there. I also know—I just recently had a roundtable discussion in Reno, and it included many of our community's leaders, including members of the Northern Nevada Food Bank, to talk about the crisis parents are dealing with right now with the lack of access to affordable child care. And I am curious.

You highlighted in your testimony how important Federal response was in addressing that tremendous need during the pandemic. It has since stopped, and can you discuss how critical support like the CTC was in meeting the overwhelming need, and how much harder it will be for organizations like yours to meet the community needs when you see an increase in that need over the last couple of years?

Ms. MORGAN. Thank you so much, Senator, and so much love to our colleagues in Nevada doing food bank work. The numbers tell the story, right? For us in Oregon in 2019, it was 860,000. In 2020, it was 1.7 million people asking for food assistance. And in 2021, it was just over 1 million.

What is the difference between 2020 and 2021? The Federal response, and in some cases, the reopening of economies as we became more accustomed to the pandemic. But from my analysis on the ground, it is primarily the Federal response. It was the increased unemployment compensation. It was the direct payments to families. It was the Child Tax Credit that made the difference, so that folks did not have to show up at a food pantry and ask for a box of food.

We want to live in a world where no one has to ask for food, where everybody can get all the food they need for their families, and we think that, in partnership with the Federal Government, we can get there.

So yes, I am scared about this year ahead as the provisions of the CARES Act and other Federal provisions sunset. What then will happen? Are we going to see another tsunami of need? Are we going to see mothers crying in line because they are worried about feeding their babies? So thank you, Senator, and the entire committee, for everything you can do to help us help our communities.

Senator CORTEZ MASTO. Thank you. I yield the remainder of my time, although little it is. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. Important points, as always.

I think Senator Thune is either online or——

Senator THUNE. Yes, Mr. Chairman, I am online.

The CHAIRMAN. Great. Terrific. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman, for holding today's hearing on charitable giving, and thanks to our panelists for your testimony on behalf of the nonprofit and charity sectors.

Charitable giving is critical for local communities in South Dakota, and we need to continue to encourage this bipartisan priority in a fair and effective manner. In 2020, during the first year of the pandemic, charitable giving in the United States by individuals, bequests, foundations, and corporations, reached a record high of $471 billion. Overall charitable giving in the country in 2020 increased by 5.1 percent over 2019, and when adjusted for inflation, the total amount increased 3.8 percent.

So my question, Dr. Osili, is, can you tell us which categories of charitable giving saw the biggest increases in 2020? And how do you think the pandemic has changed Americans' charitable giving patterns?

Dr. OSILI. Thank you for that very insightful question. There were three factors that contributed to the growth in charitable giving. Certainly, number one was the recovery of the economy, especially the strong financial markets at the end of 2020. We also had increased need, as we have heard from my colleague from Oregon. And in addition to that, we had the racial and social justice movements in 2020. So all those factors combined, led to what we saw in terms of charitable giving.

As we unpack the data, there were three areas that stood out in terms of increases, in particular, what we call public society benefit, which is the sector that includes the umbrella of causes such as donor and side funds, the national funds, and also United Way, United Jewish Appeals, and civil rights organizations that are leaders in terms of charitable giving growth. We also saw strong growth in education and in basic needs charities, which include organizations like the Oregon Food Bank. In terms of areas that did not perform as well in 2020, it is worth noting that arts and culture organizations were severely impacted by the pandemic because many of them were not able to hold in-person events—income-generating and fundraising events that usually involve a face-to-face gathering.

So overall, the charitable sector grew, but not all organizations benefited, and certainly not all subsectors experienced the growth that we saw.

Senator THUNE. Thank you. So, since the increase in the standard deduction, overall charitable giving amounts have gone up. The number of individual itemized deductions claimed for charitable giving has gone down. And to put that another way, overall giving amounts have increased while the number of itemized donations has decreased.

Dr. Steuerle, given the significant increase in the standard deduction, which resulted in fewer individual taxpayers itemizing deductions than in 2018, are the estimates of non-itemizer giving before and after 2018 necessarily comparable? And could you speak to any current data that directly measures the magnitude of charitable giving by non-itemizers?

Dr. STEUERLE. So we know in the years after 2017, in point of fact, giving did increase a bit. However, what also happened during that period was, we were at the end of a long period of economic growth.

We also had income actually increasing, surprisingly, in 2020 because of the Federal subsidies that flowed through. So, as Dr. Osili mentioned, we are not quite sure what is going to happen as we move forward into the future. In fact, there are a number of projections that say giving will decline. When you reduced the charitable incentive as much as happened in 2017, you essentially took 6 cents out of every dollar that was given to charity away from those charities. That is, the Federal Government used to provide about 21 cents on the dollar for charitable giving and dropped it to about 15 cents.

So we think that that probably led to some decline; maybe it was not 6 cents, but it certainly was not zero, in terms of the effect. There is something we do not measure well as economists. We are actually not good at measuring long-term effects of different provisions. And I think the symbolism and the signals provided by giving a deduction only to about one-tenth of taxpayers is pretty powerful, and it speaks to the earlier questions you and some other Senators have had about what we can expect for the future in terms of community participation. I think it sends a very bad signal, and I think I am sure all the people at this table agree that we need to have a more universal set of incentives, partly just as a signal. I cannot tell you what the full effect of that signal would be, but I think it would be quite powerful.

Senator THUNE. Thank you.

Mr. Chairman, my time has expired, but let me just say how important it is that we encourage and incentivize charitable giving in this country. I do not think there is anything that we do as a matter of public policy that contributes more to meeting the needs of Americans in so many different areas of our economy, but certainly what happened during the pandemic is a reminder of the effectiveness of charitable giving and the need for us to encourage it. So, thank you.

The CHAIRMAN. Senator Thune, thank you. And you and I have been fortunate enough to be able to lead a number of these bipartisan efforts to promote charity, and I look forward to continuing to work with you.

We are happy to have Senator Cardin.

Senator CARDIN. Mr. Chairman——

The CHAIRMAN. Senator Cardin, just one quick point before you proceed. I would just say to colleagues, we are getting down to wrapping up, and if colleagues on either side of the aisle would like to either come in person or be available to make their presentation online, now is the time to do it.

Senator Cardin?

Senator CARDIN. Well, Mr. Chairman, first, thank you for holding this hearing. I appreciate it very much. I think it is very important that we highlight what we can do in this committee's jurisdiction in regards to the nonprofit communities. So, thank you all very much. And I would ask consent that the statement from Apra, Maryland Chapter, be made part of the record.

The CHAIRMAN. Without objection, so ordered.

[The statement appears in the appendix on. p. 35.]

Senator CARDIN. I understand there has been a good deal of discussion about some of the tools that were made available during the coronavirus that affected the nonprofit community. As chair of the Small Business and Entrepreneurship Committee, I appreciate the references to the Paycheck Protection Program particularly. I just really want to make an observation first.

In the early stages of that negotiation, it was not certain at all that the nonprofit community was going to be included, because the Small Business Administration does not include the nonprofit community in many of its programs. The 7(a) program did not include this. This was a real expansion of the efforts on behalf of nonprofits.

And it was clearly the right thing to do. The nonprofit community—there are so many small entities that have all the challenges of a small business. And during the pandemic, they were really hurt badly from the point of view of their financial resources, but as well their mission, in order to carry it out. So I am pleased that it was able to keep active and alive the nonprofit community, the tools that were made available from the Small Business Administration in the bipartisan effort here in the United States Senate.

And I want to compliment the chair on the Employee Retention Tax Credit, which has also been mentioned. Senator Wyden was the leader on that particular initiative, and we thank him. And there was a moment where we were having challenges as to whether smaller entities were going to be able to participate, and Senator Wyden was our hero in keeping that there.

I am distressed, Mr. Chairman, to learn that you are having challenges in getting that process through the IRS. And one of the things I think we could do as a committee is recognize that smaller entities, including nonprofits, do not have the financial wherewithal to be able to take on the bureaucracy as larger companies can. We should really work, in the administration of the IRS, for the sensitivity of smaller entities, whether they are for-profit or nonprofit. And I know from the nonprofit community in Maryland, so many of them really need that particular help.

And then lastly, I just really want to underscore the efforts that—when we talk about the non-itemizers, the smaller contributors, those who are giving to their community, again it is usually—many of those dollars go to the smaller of the nonprofits.

So once again, I think we need to have a sensitivity to smaller entities. I am very happy about all the nonprofit community, believe me. But I do think we need to be able to help the smaller nonprofits deal with a lot of the bureaucratic issues we have, as well as the financial issues in the tax code itself.

And I have asked the chairman—he has been cooperative here—I hope we will have an opportunity to look at the Internal Revenue Code from the eyes of smaller entities and have policies that help deal with their realities in the tax code itself.

Would any of you want to respond to that? Mr. Cardinali, I know you have been engaged with the smaller entities. Your comments?

Mr. CARDINALI. So first of all, thank you, Senator, for your comments. I agree. The ERTC has been game-changing. I appreciate the committee's leadership there. The Paycheck Protection Program saved 4.1 million jobs by the Johnson Center's estimates, which kept people employed and able to take care of our community during the pandemic.

And this last point you made regarding strategies for the sector to actually fully be able to partner with government in a way that will allow it to best serve government, both as a resource as well as an implementer—we have been working on a piece of legislation that Representative McCollum is about to drop, we hope, called the Nonprofit Sector Strength and Partnership Act of 2022, which would basically establish permanently an office of nonprofits in the White House. It would set up an interagency council coordinated by that office, and then a Federal group of bipartisan nonprofit leaders, so that we would not run the risk of having something like the Paycheck Protection Program be left to just advocates on the outside. There would be people in government who would have a knowledge of how the sector needs to be supported.

Thank you for your leadership.

Senator CARDIN. Thank you.

The CHAIRMAN. Senator Cardin, let me just follow up on the thoughtful points you made. And I think there may be an opportunity, given the extra money that is going to the IRS that you and I and this committee strongly supported because, to a great extent, one of the areas we agree on is that they are kind of in the Dark

Ages on some of these issues relating to technology and having skilled individuals, and their being able to recruit—and because we found that Amazon was paying more than the IRS.

I would be very interested in working with you on trying to make sure that some of that extra money that was just signed into law last week was for small business-focused efforts as it relates to these issues. I would be interested in your reaction. We are waiting for Senator Brown, but Senator Cardin, as is usually the case, is out in front with respect to being innovative. He has ideas for making reforms in the entire agency, with Senator Portman, that we are looking forward to.

But what about moving right now, given the fact that that money was just increased here in the last couple of days, to address some small business concerns you are talking about?

Senator CARDIN. Well, I can tell you, having as my partner the chairman of the Senate Finance Committee will give me a much better opportunity to get some results with the IRS. So I accept.

The CHAIRMAN. I thank my colleague. And with that bold explanation Senator Cardin has made, we can now have Senator Brown, a great friend of charity. Thank you, Senator Cardin.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman.

Ms. Morgan, I would like to start with you. You told us in your testimony that charity organizations simply cannot replace Federal funding for the programs and resources our families need to thrive. I would do a really quick shout-out to the work that United Ways all over Ohio have done in terms of getting people connected to the Child Tax Credit and Earned Income Tax Credit.

I know Chairman Wyden is not giving up on the importance of those and extending them. But put that aside for a second.

The very first thing you said Congress should do to reduce hunger is reinstate the Child Tax Credit expansion. That makes sense, given we saw a significant drop in hunger levels. We saw a 40-percent drop in poverty. We know it relieves anxiety for families, particularly at the end of the month. And it gives them, as someone said, the joy of a little bit of breathing room in their personal finances, especially when rent is due at the end of the month.

There are a number of us on this committee—let me just back up for a second. So, Ms. Morgan, if you would, just tell us about your experience with the Child Tax Credit and how the lapse in advance payments strained nonprofits like yours?

Ms. MORGAN. Thank you very much, Senator. As I have said before, we saw a huge tsunami of need in 2020, and that dropped in 2021. So what we were finding was our neighbors—and 70 percent of the people who work at Oregon Food Bank have experienced hunger. So it was our neighbors who were facing hunger who had the choice to not have to go to a food pantry or a meal site, but could instead go to a grocery store and ensure that they could put meals on the table for themselves and their families.

And as you can imagine, as all of you can imagine, if you are hungry, nothing else matters. So there is the Chinese proverb that says, "The man who has food has many problems. The man who does not have food has one." Because it is a basic need. We need to eat three times a day.

We know that when Congress, when the philanthropists invest in basic needs, it creates opportunity and space for all the other things: better parenting, better education, better work habits. We have the opportunity to participate civically. So we need our basic needs met in order so that we can be fully human and fully American. And this is a great opportunity for Congress to continue to participate in that work.

Senator BROWN. Thank you very much, Ms. Morgan.

My next question is for Mr. Cardinali. I have heard all around my State from nonprofits like the YMCA that the early termination of the Employee Retention Tax Credit really hurt. Many nonprofits relied on that credit when budgeting and planning for workforce needs. That is why I am co-sponsoring Senator Hassan's bill to reinstate it.

Give us a few examples, if you would, Mr. Cardinali, of how the early termination of ERTC actually hurt nonprofits.

Mr. CARDINALI. Thank you, Senator, and thank you for your leadership in Ohio and nationally. I can give you a very concrete example about not just the early termination but actually something that was mentioned earlier regarding the IRS and their slowness in being able to actually provide these reimbursements.

So specifically, an example out of Maryland that was received just this week—I think it was submitted by one of the Senators—that in 2021 they have received their credit, but they have not received either payment from 2020. So not only are we looking at the importance of it, the ERTC, as a way of nonprofits keeping themselves employed, which was a great innovation—I want to thank the committee again for it; it was a game changer—but now, having it being repealed in the last quarter really threw off planning. Anybody who has run a nonprofit knows that you have to plan very carefully on cash flows, and you rely on both public and private sources. And when you get a massive disruption, it not only throws off the individual employees that you may not be able to pay, but your operations, and it destabilizes your culture internally.

So I would just encourage this committee to double down on reinstating the ERTC and ensuring that the IRS is able to have the resources necessary to be able to get those reimbursements out in a timely manner.

Senator BROWN. Thank you, Mr. Cardinali.

I will just make a closing comment. I don't want to go over the time. I know you know we are diligent on this committee, and the chair is really leaning into this to make sure the IRS has the resources and workforce it needs to carry out its mission after years of underfunding. It was so impressive, even with that shrunk staff, if you will. We passed the Child Tax Credit; Senator Bennet especially, on this committee, and I worked together with the chairman and passed it in March and immediately talked to the Secretary of the Treasury, and those checks were out the door July 15th, August 15th, September 15th, October 15th. And in my State, literally the families of 2.2 million children have benefited from that. And we know the difference it made, in not just cutting the rate of poverty, but the difference it made in how it just made people's lives better and a little bit easier.

So it is really important that the overworked and underresourced IRS gets the help that it needs. And I thank all of you for that.

So thank you, Mr. Chairman, I yield back the time.

The CHAIRMAN. Thank you, Senator Brown. And Susannah Morgan spoke for a lot of Oregonians when she said right out of the gate how much she appreciates the Child Tax Credit. And you and Senator Bennet on this committee, supported by Senator Casey as well, have been the ring leaders on one of the things I am proudest that this committee has done. Dollar-for-dollar, it is making a huge difference for kids. And we know in our home town, you know this, Ms. Morgan, when I go out and ask people, "What did you spend the Child Tax Credit on?", they say things like "shoes for kids." We hear shoes. In our part of the world, it rains once in a while. Shoes are really important. So, thank you, Senator Brown, and Senator Bennet, and Senator Casey, for all the leadership on it.

Now we are going to go to, in order of appearance, Senator Young then Senator Casey.

Senator YOUNG. Thank you, Mr. Chairman, for holding this hearing. And I want to welcome our witnesses, in particular Dr. Osili, a fellow Hoosier. I am grateful for your presence here today.

I would like to begin by asking a couple of questions about community foundations. We take great pride in our community foundations in the State of Indiana, and, Dr. Osili, as you know, beginning in 1990, the Lilly Endowment began an initiative known as GIFT, or Giving Indiana Funds for Tomorrow. This is a way to help establish and strengthen community foundations across the State of Indiana. When GIFT began, there were fewer than 12 community foundations, and today there are 94 community foundations. We have 92 counties, so of course that is more than one per county. Indiana is the only State in the country with a community foundation in every single county. And we have the country's highest concentration of community foundations.

Dr. Osili, how does this structure—the only State in the country with a community foundation in every single county—enable our State to better serve local communities?

Dr. OSILI. Thank you, Senator Young, for your leadership. Indiana is unique. We have, as you noted, a community foundation in every single county, probably the highest concentration of any State in the country.

There are over 700 community foundations nationwide. We have seen in this crisis that community foundations have played a vital role not just in collaborating and coordinating, but also avoiding duplication and connecting donors to need. One takeaway from the work in Indiana is the idea that every single American is a philanthropist. You do not have to have millions of dollars. People of all different backgrounds can participate.

And in this crisis, in our communities, community foundations have been the conveners, the collaborators, and also the catalysts for innovation, bringing new ideas to the forefront and helping donors to better understand those local communities. I think there are some important examples and models that other States and other communities can learn from. So, thank you for mentioning that.

Senator YOUNG. Well, that was an excellent segue, Dr. Osili, because it begs the question. Since we are in Washington, DC, and I know my colleagues and their staff are watching attentively, are there major barriers that you might speak to regarding establishing more community foundations around the country?

Dr. OSILI. We have an endowed chair in community philanthropy at the Indiana University Lilly Family School, under Dr. Laurie Paarlberg. And one point she has noted is that in every State there is the potential, of course, to expand the work of community foundations, but every State is different, and we have to look at what those barriers are at a State level. What we have seen that has really worked in Indiana is having foundations that are willing to help support through matching grants programs. But in other States, we have had incentives for contributions to community foundations. I think Kansas is one of them where there is an incentive.

So as we look at how to support community foundations, I think what we have learned so far is just the role that they play. And I think my colleague, Dr. Gene Steuerle, can also share his example here in Virginia. They can really help support that sort of leadership and innovation that is often lacking in a crisis.

Senator YOUNG. Well, thank you, Doctor. And I will be submitting for the record some questions to the other witnesses. If you have thoughts on barriers that we can eliminate to ensure there is greater uptake in community foundations that you can learn from, what I will take some liberties with and call the Indiana model, that would be fantastic.

So, in my remaining bit of time here, Dr. Osili, I would like to highlight a column you wrote recently for the *Indianapolis Business Journal*. You stated that the pace of technological innovation in the philanthropic sector is increasing, and it is going to need to accelerate this year and in future years. We have had some really notable examples where the Central Indiana Community Foundation has partnered with an Indianapolis-based tech company, Selflessly, and met with some success in ensuring that companies have the tools to track and manage their charitable giving.

In short, Dr. Osili—I will, again, submit some questions to you to ask in greater detail about this topic, but why is it so important for organizations in the charitable giving space to embrace technological innovation?

[The questions appear in the appendix.]

Dr. OSILI. An excellent question, Senator Young. Just to put this in perspective, online giving grew by double digits over the last year. And today, online giving accounts for 10 percent of charitable giving overall, the highest ever on record. What this means is nonprofits have had to shift a lot of their engagements, service delivery, and even just their day-to-day operations online. And many nonprofits were not in a position to do so; they did not have the resources or the capability.

When we look at workplace giving—a very important channel, since about $6 billion is given through workplace giving—companies also face this challenge of shifting online because, in the past, workplace giving was done in person. They've had to quickly shift this giving opportunity online. So what we are looking at is an acceleration in innovation, and a need for greater reliance on technology for giving. And we are also seeing many nonprofits pivot, in other words, take advantage of these new technologies. But there is a lot more work that needs to be done, and I think as we look ahead, we are also going to need to think about some of the smaller organizations that have not necessarily adapted at such a rapid rate. What do they need? And religious congregations, we should also remember, many of them have had to start receiving donations online and may not have done so before.

So what this highlights is just a gap in the need itself and where the organizations are in their move towards making it easy to give online.

The CHAIRMAN. We are going to have to move on——

Senator YOUNG. Thank you, Doctor.

The CHAIRMAN. I will tell Senator Young that his interest here is very welcome, because we are seeing something of a tech boomlet here as it relates to ways in which we can bring more value out of these incredibly important charitable deductions. So, good point.

Senator Casey, and then we will go with Senator Daines.

Senator CASEY. Thank you, Mr. Chairman. I want to thank the panel. I apologize that I was not here for your testimony today. I had to chair the Aging Committee hearing and was not able to move between hearings. But I really appreciate you being here today.

Like so many Senators, I have been a supporter of the nonprofit sector and policies that facilitate responsible charitable giving. I also want to commend the nonprofit sector for their work, especially through the past couple of years of this pandemic, as they continued to serve during both an economic crisis and a health crisis. Sixty-three thousands nonprofits in Pennsylvania employ 15 percent of the Commonwealth's workforce. So, in my home State, I can only extend my gratitude and respect for their work and their contributions.

I just have two questions, one for Mr. Cardinali and one for Ms. Morgan. But I will start with you, Mr. Cardinali. You reference in your testimony the changing profile of charitable giving, mentioning that the share of individual contributions would have declined if it were not for the donations of a few wealthy individuals. In my home State of Pennsylvania, households give 2.7 percent of their income to charities, but charitable contributions and their associated subsidies are disproportionately skewing to top earners.

We know that the ability to deduct charitable contributions from your taxable income serves as a real incentive to give. What are the forces behind this changing profile of giving?

Mr. CARDINALI. Thank you, Senator, for your leadership and support of the nonprofit sector. I have spent a lot of time in Pennsylvania in my years with communities and schools, and you and your colleagues have been remarkable.

There are a couple of things that I want to mention about your question. I think if we think about the incentive—and I mentioned this earlier in my testimony, that the charitable deduction is giving your money away for somebody else, not buying a home, or being subsidized in any other way. So from a policy point of view, we believe that extending that incentive to everybody paying taxes is just good for community and good for America.

Secondly, when the tax structure incentivizes those who are disproportionately economically better off, they will have a set of interests that might not be representative of the entire community. They might privilege organizations like universities, which I hold in high regard, or arts institutions, which are critically important to community. But they might not be in touch with or connected to organizations like food banks that could benefit immensely. And Ms. Morgan and I had breakfast yesterday morning, and she was talking about the number of donors that she had, and they are primarily small donors who are not currently incentivized by the tax code.

So I think if we just think at a basic level regarding a tax code that could really pull this altruism into community, how could we not benefit from it?

There is a second piece that I would like to mention about this point, and that is that when folks are incentivized to give, we know that they are then incentivized to volunteer. I ran an organization, Communities in Schools, with 4,000 staff and 40,000 to 60,000 volunteers. So without volunteers, we could not have developed an evidence-based intervention that mitigated the effects of poverty for K–12 students.

So donations are directly related to supporting volunteers, which then is this public good that partners with government.

Senator CASEY. Thanks very much.

Ms. Morgan, I am going to ask you my final question. You had, in your testimony, talked about the way the Federal Government can act to help organizations like the Oregon Food Bank to achieve your mission. And one statement in your testimony just leaped out at me, and I am quoting here: “The Child Tax Credit alone drove down child poverty by an incredible 41 percent and reduced food insecurity by 26 percent.”

I think the first part of that, we have heard a lot of. A lot of people know because of the good work of Senator Brown, Senator Bennet. Working with the Finance chair, your home State Senator, Senator Wyden, the Child Tax Credit, the enhanced version of it, became a reality. We know it reduced poverty by that much, but we did not hear nearly enough about the reduction in food insecurity by 26 percent. So that is a positive action the Federal Government took in the passage of the Rescue Plan.

We also know that in addition to the positive impact it had, it reminded us how much of someone’s income can be spent on food. We are told that 60 percent of low-income families who receive the Child Tax Credit, the enhanced version, spent it on food; 16 percent spent it on child care. We have one more opportunity to take full advantage of the Rescue Plan in the next couple of weeks, and that is to make people aware of another, a separate tax credit, the Child and Dependent Care Tax Credit, which will allow families to get up to $4,000 per child, and up to $8,000 per household, to pay for child care.

Anything else other than those? I know there are others you can mention, but I know we are out of time, so if you could just mention one or two things in addition that the Federal Government could invest in, and then I am done.

Ms. MORGAN. Thank you, Senator. I am not going to cite legislation for you because that is not my area of expertise, but I do want to say that you have amazing food banks in Pennsylvania—Pittsburgh, Philadelphia, Harrisburg—that are wonderful partners. And I would like to just drive home the fact that hunger is a symptom. Its cause is poverty. And poverty itself has a cause, which is systemic inequities. It is not an accident that our communities of color are more likely to be hungry. It is not an accident that single moms are more likely to be hungry. It is because we have designed systems to prevent prosperity and allowed those to happen.

And so I would say that actions like the ones that you have suggested, where we distribute wealth and tear down barriers to prosperity, are exactly what we need our Federal Government to do.

Senator CASEY. Thanks very much.

Thanks, Mr. Chairman.

The CHAIRMAN. I thank my colleague for all his good work.

Dr. STEUERLE. Can I just add one quick footnote?

The CHAIRMAN. Very briefly. We still have Senator Daines and Senator Whitehouse, but go ahead, Doctor.

Dr. STEUERLE. This is just very brief, Senator. For 10 years now I have sponsored at the Urban Institute an effort to put out something called Kids Share, and we measure what goes to kids in all these programs in the budget. So I would be glad to provide that to you. I should add as a footnote to that, that almost all programs for children are scheduled to decline relative to GDP over time in the budget by the way that they are structured.

The CHAIRMAN. Very good.

Senator Daines and then Senator Whitehouse.

Senator DAINES. Mr. Chairman, thank you. I want to first start off by thanking our nonprofits in Montana and across our country for truly their tireless work they have done serving our communities during the past 2 years, a couple of tough years. Needless to say there were a lot challenges, and I am grateful our nonprofits stepped up, and it is good to see.

Montanans and Americans also stepped up to the plate. These nonprofits would not be having a better year without the fact that we had people who were very generous, contributing a total of $324 billion in 2020. That is a 2.2-percent increase from 2019, and the highest total dollar amount ever. When including bequests, foundations, corporations, a total of $471 billion was donated to charity in 2020 in the middle of a pandemic. And the enactment of legislation like the Legacy IRA Act, which was introduced by Senators Cramer, Stabenow, Rosen, Cornyn, and myself, I believe would further boost charitable giving by expanding the amount that our seniors can give to charity tax-free from their IRAs. The philanthropy of Americans certainly warms my heart and yours, but unfortunately Congress is not doing enough to police some bad actors out there who are abusing the charitable sections of the tax code.

One area that comes to mind are the fraudulent, syndicated conservation easement transactions that we have seen accelerate over the past several years. In fact, just 2 weeks ago a grand jury returned an indictment against seven defendants for their role in an abusive syndicated conservation easement scheme. According to the indictment, the defendants and their co-conspirators sold over $1.3 billion in false and fraudulent charitable contributions. I should have said "deductions" and not contributions there. These were essentially cookie-cutter deals in which investors were promised a 4 to 1 return on that money they invested within a matter of months. As explained in marketing material that accompanied the deal, an investor who contributed $100,000 to the scheme could receive $170,000 back within months of purchasing their syndication unit by claiming a $400,000 charitable deduction.

The government has known about this very specific tax shelter for years, and yet it continues. According to the IRS, syndicators claimed nearly $36 billion in unwarranted deductions alone between 2010 and 2018, with $9.2 billion claimed in 2018.

Senator Stabenow and I have legislation to put an end to these shady deals, which also has the support of the chairman, former chairman Grassley, and other members of the Finance Committee and the Senate. I believe Congress needs to pass our bill this year. The abuse needs to end. And just to be very clear, I am very much pro-conservation easements. In fact, Montana is one of the leading States. It is a great way to incentivize the private sector, private landowners in the realms of conservation. It is the abuse of these syndicates that is the issue.

Dr. Steuerle, this is just one example of a few bad actors unlawfully profiting under the guise of philanthropy. My question for you is, what could be done to better protect the integrity of charitable laws, which I fully support?

Dr. STEUERLE. Senator, this is really a tough issue, but tax administration is something, as everyone on this committee knows, that does not get well funded. So one thing is just simply to increase the money that goes into tax administration.

But another, which is really tough I think—and my testimony is largely about making tradeoffs—is, if we are willing to put in some tighter rules with respect to charitable contributions, how they are recognized, what can get by, we can use those resources to fund the types of incentives that members of this committee want to provide, as you yourself have talked about.

I think that is a way to corral the charitable community to join with you in this effort. I think one of the dilemmas—and I am being quite blunt about it—is it is very hard for the community as a whole to speak out against, particularly, their members. They might speak out against the greatest abuses, but when it comes to some simplification, say we are only going to allow easements when they meet certain tough criteria, you will get feedback from those who are probably good actors who say, "Well, I don't want to bear the additional administrative costs."

So the way to win this battle is to offer a higher incentive, say put that money towards a better charitable incentive, and that way we can get the members of the charitable community to join with you in this effort. Otherwise, I think it is often a losing battle to just pretend that we can just hope that maybe a couple more dollars to IRS are going to solve the problem. IRS should have more resources, but that is not enough. You really have to get the charitable community behind the type of effort you are talking about.

And I will mention some tradeoffs here in terms of reporting as well. It is also an issue with 990 reporting, which IRS delays getting out. The individual taxpayer is one of your best sources for information on what is going on. The better we get 990 reporting put out to the public as it is required to be, and on a timely basis, the better the individual taxpayer, the households out there, can join in your effort to create a stronger community.

Senator DAINES. I am out of time, but I will just end with a comment on good actors and bad actors. Again, there are many, many, many more good actors on conservation easements——

Dr. STEUERLE. I fully agree.

Senator DAINES. And they are fully behind this legislation, because it is a few bad actors here who are tainting the good efforts of our land trusts, and they are very supportive and would love to see this passed here, and I hope we can. We have a good bipartisan start here, and I hope we can get this signed into law. Thank you.

The CHAIRMAN. The time of the gentleman has expired, and I want him to know, as we have talked about this issue so often, I am in very strong support of this, as you know. Chairman Grassley and I led efforts to look into these kinds of abuses. So there have been four of us on this committee, two Democrats, two Republicans, and, Senator Daines, your point that you just explored here a minute ago is spot-on in the sense that we know how important these are in the West, where the Federal Government owns so much of our land, and we are talking about a small minority that unfortunately is really abusing a very valuable tool for the vast majority of folks, particularly Westerners, who use it in a thoughtful way.

So I just want you to know, we are in this battle until we get it done. This a chance for the two of us to send a message to all the scofflaws out there, the people who are not willing to be in the majority and comply with the rules. And we are going to stay at it until we have fixed it.

Senator DAINES. I thank you, Mr. Chairman. Thanks for your support. I think I sense a movement.

The CHAIRMAN. Not just a movement. You see a grassroots mobilization. And as you know, we have a lot of businesses with us—environmental folks, businesses, community leaders. So we are on it. Thank you.

Senator Whitehouse, we have a vote on, and you may actually be at the vote.

Senator WHITEHOUSE. No, I am here.

The CHAIRMAN. There you are. We are going to have Senator Whitehouse, and then we are going to finish up. After Senator Whitehouse is done, I will give a lengthy closing address of about 2 minutes.

Senator Whitehouse?

Senator WHITEHOUSE. Thank you, Mr. Chairman, very much.

My question has to do with donor-advised funds, and it is for Ms. Morgan. As you know, the connection between a charitable donation and the tax deduction for it is to encourage people for the benefit the public receives. With donor-advised funds, you have the predicament that the donor gets the deduction now, but the charitable benefit may not happen for years. And depending on a variety of circumstances, it may not happen actually ever.

There is an estimated $140 billion set aside for future gifts in donor-advised funds with no requirements for the funds to actually be distributed to charities. And one study taking a look at donor-advised funds found that 35 percent of them did not make a single distribution in 2020, which was kind of a high-need year for charitable giving.

So I am working with a number of my colleagues on trying to have a reform of donor-advised funds. I would like your thoughts on the importance of that. One of the pieces of pushback that we have gotten is that it creates a very significant administrative burden for the donor-advised funds, particularly ones that persist through time, where donations come in on year 1, year 2, year 3, year 4, year 5, and then donations are going out year 1, year 2, year 3, year 4, year 5, and you get into a very complicated piece of logistical tracking to try to identify when each dollar came in so you can find out when it went out, and whether it met the distribution requirements.

So if I could ask for your thoughts generally on whether this is an area that you think needs attention, and specifically if you have ideas on ways to grapple with the tracking of timing of individual dollars, sort of an accounting predicament, I would be grateful to hear from you about that. And if anybody else cares to chime in, please—I do not want to extend the hearing, but please do feel free to send in responses if I have asked you a question for the record. Send in a written response.

So with that, Ms. Morgan?

Ms. MORGAN. Thank you very much, Senator. I am sure that my colleagues at Independent Sector have a wealth of research on some very specific policy recommendations on this. From where I sit on the ground, we track our inventory like that. We get a donation of a truckload of oranges, we have to know when they show up and when they go out, and who they go to. So I am not particularly sympathetic to complex tracking requirements, because I live with them every day.

Our sense is that hunger is a crisis right now. Before the pandemic, it was one in five Oregonians; it has gone up to as close to one in four during the pandemic. The idea that money is getting tucked away, that is not benefiting our neighbors, our communities, ourselves, right now is anathema to me. Philanthropy means the love of humankind. And the act of philanthropy is the act of showing love. Should there be charitable incentives to encourage them? Well, of course there should, like giving ice cream to a kid for getting a good grade on an exam. But the getting a good grade is a reward in itself, and participating in the community is a reward in itself.

I believe that, in general, charities are with you, Senator, on the idea of the need for reform for donor-advised funds, and that it needs to be crafted carefully so that it does not have unintended consequences.

Senator WHITEHOUSE. Good. Well, thank you. I will use the last 30 seconds of my time to support what the chairman said about our common interest in making sure that conservation easements are used properly and honestly. My father is no longer with us, but he spent his retirement as chairman of the Piedmont Environmental Council, which at one point had the most dense array of conservation easements anywhere in the country, and he did an outstanding job of preserving that historic countryside. So I am a firm believer in the value of conservation easements and happy to be a part of Team Wyden and Team Daines on that.

Thank you very much.

The CHAIRMAN. Thank you, Senator Whitehouse, for all your leadership on environmental issues. Terrific panel. Thank you all so much.

I especially want to thank my good friend Susannah Morgan for making the trek to Washington, DC, a trek of more than 3,000 miles. She may beat me home, because it looks like I am going to be doing a red-eye tonight to make it to central Oregon first thing in the morning, but I really want to thank her for all her leadership.

This is a terrific panel. Senator Crapo is, of course, the ranking minority member. He has been involved in a number of matters that have involved a negotiation this morning, and he really wanted to be here.

We are going to work on this in a bipartisan way. That is the way we try to do everything that we possibly can. Now, it is not always possible, and I always kind of use that because, with respect to the Child Tax Credit, I went to the floor of the United States Senate in December, and I asked unanimous consent to extend the expiring Child Tax Credit for a year. And unfortunately, there was objection from the other side of the aisle.

So then I came back in January, and I asked unanimous consent to again extend the Child Tax Credit for a year, and again there was an objection from the other side. So sometimes it is not possible. But I will tell you, there are a lot of opportunities right now for bipartisanship.

You have given us an enormously important one as it relates to charitable giving. We are also working in a bipartisan way with respect to competing with China, mental health, retirement savings. So I really appreciate your giving us a very good update on what the challenges are.

And apart from the fact that we are still coming out of a crisis, the pandemic, we want to give more certainty and predictability to all of you so that you are in a position to talk to workers, and donors, and others. That is where I think we stand, not just for the next 15 minutes, but for the days ahead.

You have given us a lot of good ideas. Let me also say that, for the record, the questions are due on March 24th. Members have to submit their questions for the record by March 24th. We thank all our guests again,

With that, the Finance Committee is adjourned.

[Whereupon at 12:02 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Submitted by Hon. Benjamin L. Cardin,
a U.S. Senator From Maryland

Apra Maryland

March 16, 2022

Apra Maryland is the professional development and networking resource for Maryland-area fundraising professionals who harness information and data to drive philanthropy. With our 160 members, we urge your support of the Universal Giving Pandemic Response and Recovery Act (S. 618/H.R. 1704).

In March 2020, as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress enacted a $300 charitable deduction for Americans who do not itemize their Federal income taxes. In December 2020, Congress extended this universal charitable deduction availability through 2021 and increased the cap to $600 for joint filers with the Taxpayer Certainty and Disaster Tax Relief Act of 2020. Unfortunately, this important lifeline for Maryland's charitable nonprofits expired at the end of 2021.

The universal charitable deduction has been an essential aspect of COVID–19 pandemic relief for Maryland's 30,880 charitable nonprofits. The Association of Fundraising Professionals' Fundraising Effectiveness Project reported that in the last quarter of 2020, ". . . general donors giving less than $250 have come out in a huge way during the pandemic" with a "+15.3% [year to date] change."

The bipartisan Universal Giving Pandemic Response and Recovery Act (S. 618/H.R. 1704) would extend the availability of the universal charitable deduction through 2022, eliminate the current exclusion of gifts to donor-advised funds, and increase the maximum deduction to an amount not to exceed ⅓ of the standard deduction.

Apra Maryland supports the extension and expansion of the universal charitable deduction and urges the Maryland Congressional Delegation to adopt legislation to that effect. We support S. 618/H.R. 1704, preferably with amendment to make a permanent universal charitable deduction, not to exceed ⅓ of the standard deduction.

Thank you,
Theresa Clark
President

Prepared Statement of Daniel Cardinali,
President and CEO, Independent Sector

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to share a perspective from the nonprofit and charitable sector at today's hearing. I serve as president and CEO of Independent Sector, a national membership organization founded in 1980 made up of nonprofits, foundations, and corporate giving programs nationwide. Working together, our approximately 500 member organizations and their networks reach every State and district and touch the life of every American in one or many ways. They range from some of the largest charities in the world to all-volunteer organizations, and from major philanthropic institutions to small foundations, academic centers, community-based organizations, and more. Independent Sector's core aim is to support these organizations and all civil society, working toward a healthy and equitable nonprofit sector to ensure all people living in the United States thrive.

It is an honor to represent Independent Sector's members and the broader nonprofit sector along with my fellow witnesses today. Our sector's strength—like our Nation—lies in its diversity. With that in mind, I also strongly urge you to draw upon the vast wealth of knowledge and community-based context in comments submitted for the record by several of our member organizations and other leaders in the nonprofit sector, including the Girl Scouts of the USA, Council on Foundations, Association of Art Museum Directors, League of American Orchestras, Jewish Federations of North America, YMCA of the USA, United Way Worldwide, Opera America, Dance/USA, American Alliance of Museums, National Council of Nonprofits, National Health Council, Goodwill Industries International, Association of Fundraising Professionals, and Faith and Giving.

IMPORTANCE OF THE NONPROFIT SECTOR

Before considering the nonprofit sector's impact on the people it reaches, I ask you to consider its importance to something even more fundamental: representative democracy itself. In the course of their daily commitment to promoting the common good, the organizations that form our civil society nurture a marketplace of ideas analogous to the way that for-profit organizations sustain a marketplace of goods. Without either of these marketplaces, American democracy would be in grave peril. The fragility of democracy is on clear display around the globe, and nonprofit organizations play a critical role—within America's borders and beyond them.

Advancing Human Flourishing and Solving Problems Together

Over our more than 250-year history as a Nation, civil society has been the place where young people are educated to realize their potential and contribute to society, cultural institutions enrich our lives and unleash our creativity, and religious institutions provide meaning and build community rooted in values. Without these essential institutions and community members leading and volunteering in them, our citizenry would be greatly diminished.

The nonprofit sector is the place where people have been coming together to solve problems for as long as there has been a community to serve. Whether they are providing housing, health care, nutrition, workforce development, education, disaster relief, cultural inspiration, spiritual guidance, environmental conservation, or any number of other essential services, nonprofit organizations are run by community-based boards of directors. This means they have a keen and powerful sense of what holds a community together, what it needs, what it most values, and what might be pulling it apart. They offer an unmatched look at the fabric of community life in America.

The COVID–19 pandemic has challenged Americans like nothing else in our lifetime. As with any monumental challenge, the nonprofit sector has confronted this pandemic heroically and in innumerable ways. As just one example, the Bethlehem Inn in Bend, OR provides safe and inclusive shelter for men, women, and children across central Oregon who are working their way out of homelessness. Each year, the Inn has the capacity to compassionately serve 1,100 adults with shelter, nutritious meals, clothing, hygiene essentials, and opportunities for addiction counseling, life-skills training, and housing and employment applications. Throughout the pandemic and economic crisis, charitable support from the community helped keep the Bethlehem Inn's doors open. Not only did they continue providing services while taking precautions to successfully prevent a COVID–19 outbreak, but they also responded to profound community need by opening a second location that will continue providing opportunity for people who have fallen on hard times.

The world has watched the crisis in Ukraine unfold in real time, but the nonprofit sector has not merely watched; it has sprung into action. Aided by the generosity of donors from around the world, nonprofits have provided emergency medical and humanitarian assistance within Ukraine, supported essential journalism, and offered nutrition, health, counseling, shelter, and more to an ever-growing number of Ukrainian refugees in bordering countries. The speed and effectiveness of the nonprofit sector's response could never be duplicated by government programs or well-meaning businesses.

Trusted Doer and Partner

Nonprofit organizations are woven into and reflect the communities they serve, and they work every day to improve lives and build a brighter future. No sector is closer to the realities or the people on the ground or has as deep an understanding of the problems communities face. With this understanding and proximity comes the trust to drive innovation and collaboration to get things done.

As a result, the nonprofit sector is an essential partner for government leaders with big goals. From health care to housing, education to environmental protection, government at every level relies on nonprofits to generate innovative new solutions and provide critical services throughout the country. This collaboration does not always properly recognize the expertise, capabilities, and needs of nonprofit organizations, and could be improved with additional structures and policies.

Economic Driver and Job Creator

While the organizations and people that serve in the nonprofit sector are driven primarily by their charitable missions, they drive an essential part of the Nation's economy. Over 10 percent of the private workforce in the United States is employed by a nonprofit organization, and with more than 12 million paid workers, the nonprofit sector employs more people than the finance and real estate sectors combined, outpacing manufacturing at the national level and in 27 States. Further, these organizations pay $670 billion annually in wages, supporting families in communities across America.[1] Despite its "tax-exempt" moniker, the sector pays a significant amount of taxes; in 2010, 501(c)(3) organizations paid $35.2 billion in payroll taxes.[2]

HEALTH OF THE NONPROFIT SECTOR

Last fall, Independent Sector published our second annual "Health of the U.S. Nonprofit Sector"[3] report—an evolving resource that collects the most current data on the health of the U.S. nonprofit sector across multiple dimensions in a single, accessible format. While there are many ways to assess the health of a system as large and complex as the nonprofit sector, the report focuses on health indicators in four categories: Financial Resources, Human Capital, Governance and Trust, and Public Policy and Advocacy. These are the lenses through which Independent Sector considers trends in the nonprofit sector.

Financial Resources

Much like for-profit counterparts, the pandemic deeply disrupted the finances of many nonprofit organizations as fee-for-service and other earned revenue evaporated and COVID–19 precautions increased the cost of operations. Organizations that historically relied on in-person fundraising events faced particularly acute challenges. Unlike for-profit businesses however, nonprofits saw a huge surge in demand for assistance as their communities confronted immense health and economic challenges.

If nonprofit costs have increased as a result of the pandemic while earned revenue has decreased, revenue from charitable donations has been more difficult to assess, in part because it is distributed unevenly across the nonprofit sector. According to Giving USA, total charitable giving increased in 2020, although donations from individuals would have dropped without the broad and robust giving of one particular donor. According to the Fundraising Effectiveness Project, charitable giving through the third quarter of 2021 largely kept pace with 2020 levels, with a small decrease in the number of donors and a small increase in the total amount in donations. Another recent study from researchers at American University and George Mason University found no significant increase in giving to organizations led by or serving communities of color in 2020 or 2021, despite increased attention on their missions.

While the trends in dollars donated over the past 2 years may be somewhat varied, the longer-term trajectory of the number of Americans donating is clear and alarming. Twenty million fewer American households gave to charity from 2000–2016, a decline of 13 percent.[4]

Human Capital and Workforce

The nonprofit sector is powered by people, including nearly 12 million employees as well as approximately 70 million volunteers who step up to serve their communities in various ways. During the worst of the recent economic crisis, nonprofit or-

[1] Lester M. Salamon and Chelsea L. Newhouse, "The 2020 Nonprofit Employment Report," Nonprofit Economic Data Bulletin no. 48. (Baltimore: Johns Hopkins Center for Civil Society Studies, June 2020).

[2] National Center for Charitable Statistics (NCCS), the Urban Institute, the Nonprofit Almanac 2012.

[3] Grayson et al., "Health of the U.S. Nonprofit Sector," Independent Sector, October 2021.

[4] Chelsea Jacqueline Clark, Xiao Han, and Una O. Osili, *Changes to the Giving Landscape* (Indianapolis, IN: Indiana University Lilly Family School of Philanthropy at IUPUI, 2019).

ganizations lost over 1.6 million jobs and the sector was still missing approximately 459,000 jobs as of December 2021,[5] the most recent estimate available. While the economy as a whole has recovered more than 90 percent of lost jobs, the nonprofit sector lags at merely 72 percent and is not likely to break even until the end of 2022. These lost and missing jobs have particular ramifications for women, who make up approximately ⅔ of the nonprofit sector's workforce.

Importantly, these job loss numbers are the work of nonprofit researchers and reflect highly informed estimates based on 2017 data. The Bureau of Labor Statistics publishes quarterly data about a wide range of sectors and subsectors, but the nonprofit sector only receives such data every 5 years unless charitable resources are diverted to purchase the data from the Bureau. Although this issue is beyond the Finance Committee's jurisdiction, the lack of regular government data about the third-largest workforce in America is deeply unfair and constrains the ability of policymakers to respond to changing needs.

While trends in America's non-stipend volunteer force (as opposed to AmeriCorps participants, for example) are somewhat more difficult to measure, it too plays a vital role in helping the nonprofit sector serve those in need. One recent report found that 66 percent of volunteers had decreased the amount of time they volunteer or stopped entirely due to the pandemic.[6]

Governance and Trust

Public trust is the currency upon which nonprofits conduct their work. The extent to which the public believes nonprofits lead ethically and transparently impacts whether individuals will invest in or utilize services from nonprofits. While trust in a wide range of institutions hovers near historic lows, it is encouraging to see that 84 percent of recent survey respondents said they were confident in the ability of nonprofits to strengthen American society. The greater role nonprofit organizations play in people's lives, the more trusted they become.

While trust is a key currency for any individual nonprofit organization, it is also important to the health of the nonprofit sector as a whole. It is for this reason that Independent Sector strongly supports appropriate oversight of the nonprofit sector and condemns those would abuse our sector for private gain. In addition to appropriate legal requirements and enforcement, Independent Sector is committed to a robust practice of self-regulation within the nonprofit sector. We were proud to work with this committee in the mid-2000s to establish the Panel on the Nonprofit Sector, the work of which lives on in *The Principles for Good Governance and Ethical Practice*—33 principles of sound practice for charitable organizations and foundations related to legal compliance and public disclosure, effective governance, financial oversight, and responsible fundraising.

Policy and Advocacy

Nonprofits are a critical conduit of information between policymakers and the communities they serve, and Independent Sector believes deeply that policy education and appropriate advocacy is critical to a healthy nonprofit sector. The health of our sector's advocacy efforts can be partially demonstrated by concrete—if incomplete—victories in Federal policy in recent years, including access to Paycheck Protection Program loans, payroll tax credits for COVID–19-related sick leave and employee retention, and the creation of a nonitemizer charitable deduction for the first time in decades. However, our understanding of how many nonprofits do this work and the barriers they experience is badly outdated. Independent Sector is commissioning a comprehensive survey of nonprofits this year to answer these questions, the first of its kind in 22 years.

URGENT POLICY NEEDS

To ensure that the nonprofit sector can continue to foster individual and collective flourishing and provide essential services to communities in need, Independent Sector respectfully asks for consideration of the following legislative proposals under the committee's jurisdiction:

Restore the Nonitemizer Deduction and Significantly Increase or Eliminate the Cap

The tax code reflects our Nation's values, and has provided a tax deduction for charitable contributions for over 100 years. In 2020, the nonitemizer deduction—cre-

[5] COVID–19 December Jobs Update, Johns Hopkins University Center for Civil Society Studies, January 2022.
[6] The Role of Volunteering in Philanthropy, Fidelity Charitable, 2020.

ated in the CARES Act and subsequently extended through 2021—provided a charitable deduction for taxpayers who do not itemize up to $300 for single filers and eventually expanded to $600 for joint filers. This new incentive was a powerful statement that every American has a role to play in lifting up our communities. While the charitable impulse comes from the heart, tax incentives clearly make a difference. On December 31, 2020, donations of exactly $300—then the cap for both individuals and households—increased by 28 percent.[7] The charitable sector was deeply disappointed that congressional inaction allowed the nonitemizer deduction to expire at the end of last year.

Rather than being just for the wealthy, charitable giving should be an activity that brings a community together, strengthening social bonds and a sense of belonging, even in our differences. For example, the Idaho Nonprofit Center coordinates an annual initiative—Idaho Gives—that generates nearly $4 million in donations to roughly 600 Idaho charities. The event has an average donation of $250 and the Idaho Food bank notes that each charitable dollar provides enough food for five meals to those in need.

I urge you—in the strongest possible terms—to restore the nonitemizer charitable deduction quickly, and to significantly increase or eliminate the cap in order to strengthen our social bonds and to help generate the scale of giving America needs at this moment. Independent Sector is grateful to the sponsors and cosponsors of the Universal Charitable Giving Pandemic Response and Recovery Act (S. 618, H.R. 1704), including members of this committee—Senators Lankford, Cortez Masto, Tim Scott, Stabenow, and Hassan. We have been proud to work for the enactment of this critical—if temporary—response to the myriad challenges faced by our Nation.

On a more permanent basis, there are a number of different ways to create a powerful incentive for every American to give to charity. Independent Sector commissioned research—in partnership with Dr. Osili and some of her colleagues at the Indiana University Lilly Family School of Philanthropy—about what those options could mean in terms of dollars given to charity as well as the number of donors.[8] The number of donors is sometimes overlooked, but it means a great deal in policy design for at least three reasons:

- It is hugely important for the health of our civil society that nonprofits are funded by the broadest possible segment of the population.[9] A charitable sector that is funded only by the wealthy will look very different and will serve America very differently, with ramifications for governance, trust, and the types of organizations and activities that receive funding.
- Charitable giving is a lifelong habit, and today's small-dollar donors may one day become major philanthropic partners. If the charitable deduction is only available for a tiny subset of taxpayers, we will fail to build the next generation of givers.
- Increasing the number of donors could have a profound impact on the nonprofit sector by bolstering the volunteer force. Households that made a donation to any charity during the course of a year were at least three times more likely to volunteer at a nonprofit in their community.[10]

It is also important to keep in mind the unique nature of the charitable deduction. Unlike incentives to save for retirement or purchase a home, for example, the charitable deduction encourages behavior for which a taxpayer receives no direct tangible benefit. The charitable deduction does not subsidize personal consumption or underwrite the accumulation of personal wealth. It simply and effectively encourages taxpayers to give away a portion of their income to benefit others.

Finally, restoring and expanding the nonitemizer deduction is extremely popular. In December, Independent Sector released polling showing that 88 percent of American voters want to see a permanent nonitemizer deduction, while 74 percent sup-

[7] Fundraising Effectiveness Project, 2020 Fourth Quarter Report.

[8] Charitable giving and tax incentives: Estimating changes in charitable dollars and number of donors for five policy proposals, Indiana University Lilly Family School of Philanthropy, 2019.

[9] Ashely, Shena. "Why the Decline in Individual Donors Should Matter to Institutional Philanthropy—and What to Do about It." *Nonprofit Quarterly.* December 3, 2019.

[10] Bergdoll, Jonathan, Indiana University Lilly Family School of Philanthropy. Unpublished analysis of 2019 data from the Panel Study of Income Dynamics, public use dataset. Produced and distributed by the Institute for Social Research, University of Michigan, Ann Arbor, MI 2021. Dietz, Nathan, University of Maryland Do Good Institute. Unpublished analysis of U.S. Census Current Population Survey Volunteer Supplement, September 2015.

port raising the cap to the level envisioned in S. 618, with greater than 70 percent support across every income level and all political identifications.[11]

Targeted Action to Further Boost Charitable Giving

In addition to a broad-based nonitemizer deduction, there are further policy levers that this committee can use to unlock additional charitable giving. Independent Sector was proud to work with Congress and our members for over a decade in support of the IRA charitable rollover provision, which was eventually made permanent in the PATH Act as part of Public Law 114–113.

A recent bipartisan proposal, the Legacy IRA Act (S. 243), would broaden access to this giving vehicle by enabling seniors to make tax-free contributions from their individual retirement accounts (IRA) to charities through life-income plans. With many Americans unable to afford to give away their retirement income during their lifetimes, this would give prospective donors one more critical way to invest in the common good in a way that works for them. Independent Sector was pleased to support a modified version of the Legacy IRA Act that was included in the Securing a Strong Retirement Act (H.R. 2954), and we urge the committee to include S. 243 in any retirement legislation that you consider.

Additionally, I urge Congress to restore two other disaster relief provisions that expired at the end of 2021: the ability for individuals who itemize on their taxes to deduct up to 100 percent of their adjusted gross income for charitable contributions, and the ability of corporations to deduct up to 25 percent of taxable income. With continued widespread economic disruption, some potential donors with highly variable income could be hamstrung by the lower limits now in effect and reduce their giving accordingly.

Restore the Employee Retention Tax Credit and Adapt it to Better Suit Nonprofit Organizations

Congress created an Employee Retention Tax Credit (ERTC) in the CARES Act to respond to the pandemic, subsequently expanding and extending it through 2021. In a long overdue recognition of nonprofit employers, the ERTC functions as a credit against payroll tax liability—unlike some prior disaster relief income tax credits that offered our sector no benefit. Independent Sector is deeply grateful to this committee for that recognition. As a result, the ERTC has been a critical lifeline, allowing nonprofit organizations to continue serving their community in the face of immense financial challenges throughout the pandemic. Its early and retroactive termination in the middle of the fourth quarter of 2021 was extremely disruptive to charitable missions and operations throughout our sector, given that organizations had planned for the expiration of the credit at the end of 2021. While the lost jobs caused by its early termination reflect families that lost a paycheck, they also point to an issue of even greater urgency—unmet community needs.

That unmet need is particularly urgent as nonprofit organizations struggle to recruit and retain staff. Alarmingly, 42 percent of nonprofit organizations responding to a recent survey had job opening rates of higher than 20 percent, as they grapple with challenges including salary competition and inability to find child care.[12] I urge you to restore the Employee Retention Tax Credit, to adjust the "gross receipts" test to more accurately reflect the resources available to sustain nonprofit operations, and to expand eligible payroll expenses to include child care and tuition assistance.

Bolster the Volunteer Force by Increasing the Charitable Mileage Rate

Independent Sector strongly supported the investment of an additional $1 billion last year in national service through AmeriCorps, but it is concerning that no similar attention has been paid to the non-stipend volunteer force. In addition to data indicating that volunteering has lagged in the past 2 years, recent press reports have highlighted recent volunteer shortages at food banks, affordable housing organizations, meal delivery operations, and other key charitable service providers. Congress cannot compel Americans to volunteer, but it can encourage this vital practice in one instance by treating volunteer drivers more fairly. I urge you to increase the Charitable Mileage Rate for nonprofit volunteer drivers from its painfully low statutory rate of 14 cents per mile to the same rate for businesses (58.5 cents per mile) for 2022, and to eliminate the tax on mileage reimbursements up to the business rate.

[11] Selected Nonprofit Policy Issues: Public Polling, Independent Sector, December 2021.

[12] The Scope and Impact of Nonprofit Workforce Shortages, National Council of Nonprofits, December 2021.

Provide a Seat at the Table for the Nonprofit Sector

While the other solutions I have called for today fall squarely within this committee's focus on tax issues, there is a further set of policy solutions that are needed to strengthen the partnership between the nonprofit sector and the Federal Government as a whole. These solutions—which we refer to as the Seat at the Table Initiative—would create mechanisms that leverage the mission, knowledge, and impact of nonprofits to help government and the nonprofit sector work together more effectively in pursuit of shared goals.

Specifically, we call for the creation of a White House Office on Nonprofit Sector Partnership, as well as an Interagency Council, two structures that will allow policymakers access to data, reporting, and front-line, community-specific expertise from nonprofits so they can better assist constituents. These bodies, along with a proposed Federal Advisory Board made up of nonprofit leaders, would also ensure nonprofits nationwide are equipped to produce better policies and better results for the American people. Additionally, the initiative contains other policy measures that would support the partnership between government and the nonprofit sector, including: releasing quarterly nonprofit economic data, reducing paperwork for nonprofits to register and fundraise in multiple States, increasing access to national service, as well as assessing grant and contracting processes.

CONCLUSION

Once again, thank you for convening this hearing and for the honor of representing Independent Sector's members before the committee. These are trying and tumultuous times for legislators, the nonprofit sector, and the Nation. May they serve as a reminder that our sector's work is never over and always deeply urgent. Congress—much like its partners in the nonprofit sector—has responded to national crises over the past few years in unique ways. Now is not the time to walk away from that work, but to build upon it. Expanding the charitable deduction so that it is available to every American—along with other targeted investments in the nonprofit sector—will broaden participation in civil society and unleash the power of nonprofit organizations to ensure that all people living in the United States thrive.

QUESTIONS SUBMITTED FOR THE RECORD TO DANIEL CARDINALI

QUESTION SUBMITTED BY HON. RON WYDEN

Question. During the hearing, we discussed challenges facing the nonprofit sector, including the changes to the tax law in 2017, which resulted in a decreased tax incentive to give to charity, and a reduction in the number of taxpayers eligible to claim the charitable deduction. In 2019, just 11 percent of taxpayers claimed itemized deductions, with fewer actually claiming the charitable deduction. In your testimony, you suggested that the number of donors declined and that donations are distributed unevenly across the nonprofit sector.

Are there certain kinds of organizations that have been particularly affected?

Answer. Thank you for your leadership in convening this hearing. Without swift action, charities of every type will continue to be negatively affected by the expiration of the nonitemizer deduction and communities will be deprived of critical resources. It is hugely important for the health of our civil society that nonprofits are funded by the broadest possible segment of the population. A charitable sector that is funded only by the wealthy will serve America very differently, with ramifications for governance, trust, and the types of organizations and activities that receive funding.

I believe that a charitable deduction available only to itemizers will punish organizations whose donors tend to come from States with lower itemization rates. This construct would also likely punish organizations based in rural and low-income areas, as the donors in their area may tend to have fewer deductions and be less likely to itemize.

When considering which kinds of organizations are affected, I would direct the committee to the most recent Study of Charitable Giving by Affluent Households, published by the Lilly Family School of Philanthropy at Indiana University in

2021.[1] I defer to Dr. Osili's analysis of this report, but would note that section 5 of the report clearly illustrates affluent households giving to a wide range of nonprofit causes and organization types with basic needs and religion topping the list. According to data on page 36, eight different categories received support from more than 25 percent of affluent households. Generous donors are generous.

Furthermore, while I remain gravely concerned about the implications of a shrinking donor pool for American civil society, any analysis that focuses solely on giving by subsector or organization type is necessarily incomplete. Organizations deemed to be higher education institutions in any particular analysis are also likely making profound contributions to their community's workforce development or its health-care access. Nonprofits that may be recorded as arts organizations may be simultaneously making contributions of spiritual inspiration, youth development, and medical education to their communities, to name a few. Independent Sector appreciates your support for the full fabric of the charitable sector, and we look forward to working with you.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. Your written statement mentions Independent Sector's 2021 report, *Health of the U.S. Nonprofit Sector,* which contains helpful data, analysis, and recommendations around the nonprofit sector.

Can you discuss the overall health of the nonprofit sector since March 2020?

Answer. Thank you for your leadership in convening this hearing. Our *Health of the U.S. Nonprofit Sector* report focuses on health indicators in four categories: Financial Resources, Human Capital, Governance and Trust, and Public Policy and Advocacy. As you note, there is additional information about these four lenses in my written testimony and the full report is available on Independent Sector's website.[2]

In summary, losses of earned revenue and unpredictable fundraising have combined with increased community demand and the cost of disrupted operations to strain the nonprofit sector's financial resources since March 2020. Our sector faces severe human capital challenges, having lost 1.6 million jobs during the worst of the pandemic and recovering much more slowly than the economy as a whole. Trust in the nonprofit sector increased in 2020 as the public observed nonprofits serving on the front lines of the global pandemic and economic crisis, but this appears to have been a temporary increase. I look forward to sharing 2022 figures when they are released later this month. The health of our sector's advocacy efforts can be partially demonstrated by a number of concrete—if incomplete—victories in Federal policy in recent years, although we seek a fuller assessment as part of comprehensive advocacy research that Independent Sector is commissioning this year.

Question. In your statement, you mentioned the Legacy IRA Act, highlighting the ability for individuals to give using their retirement accounts. Considering the Finance Committee is working on a comprehensive retirement savings package, you have raised this point at an opportune time. I know your member organizations benefit from every type of giving, but my sense is that this type of giving may be overlooked.

Can you explain how important giving through retirement accounts is to your members?

Do you have relevant data that you could share with the Finance Committee?

Answer. Giving through retirement accounts is very important for Independent Sector's members and nonprofit organizations nationwide since the number of retirees in the country is rapidly growing. It is expected that 10,000 baby boomers will turn 65 every day through 2030, and those over 65 now represent 15 percent of the

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[1] Accessed at *https://scholarworks.iupui.edu/bitstream/handle/1805/26654/bank-america-sept21.pdf.*

[2] *https://independentsector.org/nonprofithealth/.*

total population.[3] Coincidently, this is the average age of a donor in the United States as of 2021.[4]

Since 2006 when charitable giving through Individual Retirement Accounts (IRAs) or Qualified Charitable Distributions (QCDs) was established and ultimately made permanent through the Protecting Americans from Tax Hikes (PATH) Act, it has remained one of the crucial fundraising avenues for nonprofit organizations. Among the many planned gift options retirees have, the QCD at age 70½ incentivizes greater charitable giving while it mitigates or eliminates the income tax on the withdrawal. Americans donated an estimated $471.44 billion in 2020. Out of that record number of donations, $41.19 billion were donations by bequest according to the Giving USA 2021 report.

Over the last few years, nonprofits have seen a surge in the number of QCD gifts coming into their organizations. According to the 2022 Report on Qualified Charitable Distributions from IRAs, 71 percent of organizations that received QCDs in 2021 said they fundraised more than $10,000 through these gifts. Nearly one-third said that they received more than $50,000 in total from QCDs.[5]

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. Nonprofits make up the fourth-biggest industry in Washington State, with more than 30,000 organizations and 238,000 nonprofit employees. Like too many industries, nonprofits across my State were decimated when the pandemic hit and had to cut staff. And 2 years later they are still struggling. In Washington nonprofit employment is still down 6 percent below pre-pandemic levels, after dropping 9 percent in early 2020. These are organizations that have been on the frontline throughout the pandemic helping people find access to housing, food, child care, and more, and they need our support.

One of the most effective measures we took in the CARES Act was to provide a payroll tax credit of up to $5,000 per employee for businesses that were hard hit by the pandemic, to help keep people employed. But unfortunately the Bipartisan Infrastructure Law repealed the ERTC for the fourth quarter of 2021 as a pay-for, leaving nonprofits without one of the key tools they had to retain staff. I am a big believer in payroll tax credits as an incentive to sustain a workforce. It's why I worked to create a similar program for our aerospace workforce in the American Rescue Plan.

What has been the impact of the repeal of the Employee Retention Tax Credit on nonprofit employment? Are you already seeing nonprofits having to lay off staff or leave open positions?

If we could extend the ERTC through the end of this year, what impact would that have to get nonprofits back to their pre-pandemic levels?

Answer. I share your support for the Employee Retention Tax Credit (ERTC) and your concern about nonprofit job losses. In a long-overdue recognition of nonprofit employers, the ERTC functions as a credit against payroll tax liability—unlike some prior disaster relief income tax credits that offered our sector no benefit. Independent Sector is deeply grateful for that recognition. As a result, the ERTC was a critical lifeline, allowing nonprofit organizations to continue serving their community in the face of immense financial challenges throughout the pandemic. Its early and retroactive termination in the middle of the fourth quarter of 2021 was extremely disruptive to charitable missions and operations throughout our sector, given that organizations had planned for the expiration of the credit at the end of 2021. It is difficult to predict whether restoring ERTC would provide enough support to help recover the more than 450,000 jobs that were still missing from the nonprofit sector at most recent estimate. While the lost jobs caused by early termination reflect families that lost a paycheck, they also point to an issue of even greater urgency—unmet community needs.

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[3] *How Women and Men Give Around Retirement.* Pg. 3. The Women's Philanthropy Institute. Indiana University Lilly Family School of Philanthropy, *https://scholarworks.iupui.edu/bitstream/handle/1805/16758/wpi-retirement-july18.pdf.*

[4] *2022 Report on Qualified Charitable Distributions from IRAs.* Pg. 15. FreeWill, *https://www.freewill.com/qcd-report-2022.*

[5] *2022 Report on Qualified Charitable Distributions from IRAs.* Pg. 33. FreeWill, *https://www.freewill.com/qcd-report-2022.*

That unmet need is particularly urgent as nonprofit organizations struggle to recruit and retain staff. Alarmingly, 42 percent of nonprofit organizations responding to a recent survey had job opening rates of higher than 20 percent, as they grapple with challenges including salary competition and inability to find child care.[6]

Question. There are over 1.3 million charitable nonprofits in the United States, employing 12.3 million people. But of course their impact goes far beyond their economic footprint—they are there again and again to step in to help those in need when they have nowhere else to turn. And nonprofits are also the recipients and implementors of so much of what we fund here in the Federal Government, from homeless services to environmental restoration. But despite the scale and importance of the nonprofit industry, there is no unified approach from the Federal Government to addressing the needs and support charitable nonprofits.

What steps could the executive branch take to better coordinate policy across agencies to support the needs of charitable nonprofits?

Would the creation of a Federal task force or dedicated White House office be useful to better support nonprofits?

Answer. Despite its scale and unique understanding of community needs, you are correct that the nonprofit sector is often on the "outside looking in" when Federal policies are decided, and there is absolutely no unified approach. There is no equivalent to the Small Business Administration for nonprofits, the Nation's third-largest employment sector. Nonprofits do play a key role as implementers of Federal policy, but—with the right systems in place—their deep community trust and on-the-ground expertise could make them true partners to the Federal Government. Independent Sector has worked with our members and partners throughout the nonprofit sector to develop an initiative comprised of structures and policies that would truly give nonprofits a proverbial seat at the table. We expect similar bipartisan legislation to be introduced in the House of Representatives very soon.

A White House Office on Nonprofit Sector Partnership would ensure policies are designed with an understanding of the sector's capacity to realize critical priorities in a way that maximizes the benefit to communities. Coordinating policies across Federal agencies through an interagency council would streamline information sharing for both agency staff and nonprofit organizations, allowing nonprofits to spend more time on their missions and helping Federal agencies work with our sector more smoothly. This is particularly urgent for organizations that participate in government contracting, with a recent survey finding that government funding covers only about 70 cents on the dollar for these organizations' direct program expenses.[7] Finally, we believe that a Federal advisory board on the nonprofit sector would allow policymakers access to data, reporting, and frontline, community-specific expertise from nonprofits so they can better assist constituents and design more effective policies.

Importantly, this initiative calls for other key policies as well. Streamlining multi-State fundraising registration, providing regular employment and workforce data about the nonprofit sector, and broadening access to national service programs would all help give the nonprofit sector a seat at the table.

Question. As you're aware, charitable organizations depend on volunteers to help deliver vital programs and services in local communities. However, the number of volunteers in the nonprofit sector have not returned to pre-pandemic levels.

Prior to the pandemic, the annual volunteerism rate in Washington State was over 35 percent, contributing 202 million hours of service valued at nearly $5 billion. In November 2020, the University of Washington reported that volunteerism rates among Washington State nonprofits had decreased by 30–50 percent, harming their ability to operate at full capacity just when their services were needed most.

Nonprofits have been essential to helping or local communities during the pandemic, even as they faced health risks, labor shortages, and operational challenges themselves. I think that it is important that we are able to support charitable nonprofits and address this volunteerism shortage.

[6] *The Scope and Impact of Nonprofit Workforce Shortages,* National Council of Nonprofits, December 2021.

[7] *A National Imperative,* Alliance for Strong Families and Communities (since changed name to Social Current), 2017.

There have been some suggestions on how to boost volunteerism like increasing the charity mileage rate to bring it in line with the business mileage rate. What steps do you think Congress should take to incentivize more people to volunteer?

Answer. Thank you for highlighting the roughly 70 million volunteers who step up to serve the nonprofit sector and their communities in various ways. The challenges you cite in your State are echoed in national survey data and press reports, as my testimony mentions. Independent Sector strongly supported the investment of an additional $1 billion last year in national service through AmeriCorps, but it is concerning that no similar attention has been paid to the non-stipend volunteer force.

Increasing the charitable mileage rate to the business rate, as you suggest, would be a critical first step and would send a strong message about the importance of volunteering at a time when many Americans are stretching to make ends meet. We support recently introduced legislation, the Volunteer Driver Tax Appreciation Act (H.R. 7432), which would increase the mileage rate for volunteers who are transporting passengers or property on behalf of a charity.

Additionally, Congress should allocate at least $250 million in Federal funding to: (1) support the creation and launch of a nationally scaled digital platform to connect, mobilize, and support volunteer networks across the Nation, particularly those in long-underserved communities; and (2) to build the internal capacity of nonprofit organizations to effectively develop and engage volunteers. In the longer term, Congress can design additional solutions to boost volunteerism if it directs the Bureau of Labor Statistics and AmeriCorps to improve data collection and analysis of volunteerism.

Question Submitted by Hon. Debbie Stabenow

Question. Charitable giving has remained relatively stable compared to GDP over the last several decades, but studies have suggested that the proportion of individual donors has been declining. The nonprofit sector has provided enormous support to communities across the country, while many families, who may normally donate to their local nonprofits, are facing their own struggles and economic hardships during this unprecedented crisis.

Charitable IRA rollovers provide an important option for seniors to donate. In your testimony, you advocated for the Legacy IRA Act (S. 243), introduced by Senator Cramer and me, which would expand charitable IRA rollovers.

What would the expansion of charitable rollovers, specifically enactment of the Legacy IRA Act, mean for both seniors who want to donate and the nonprofits that receive those donations?

Answer. We are grateful for your leadership on this issue. If enacted, the Legacy IRA Act (S. 243) would broaden access to this giving vehicle by enabling seniors to make tax-free contributions from their individual retirement accounts (IRA) to charities through life-income plans. With many Americans unable to afford to give away their retirement income during their lifetimes, this would give prospective donors one more critical way to invest in the common good in a way that works for them. After the donor passes away, the remaining amount is used by the charity for their mission. Independent Sector was pleased to support a modified version of the Legacy IRA Act that was included in the Securing a Strong Retirement Act (H.R. 2954), and we urge the Senate Finance Committee to include S. 243 in any retirement legislation.

The Legacy IRA Act would mean donors could have a greater impact and nonprofits would have more funds to continue their crucial work. Nonprofits are estimated to see overall giving increase by $1 billion if this bill becomes law, according to the 2022 Report on Qualified Charitable Distributions from IRAs.[8]

[8] *2022 Report on Qualified Charitable Distributions from IRAs.* Pg. 30. FreeWill, *https://www.freewill.com/qcd-report-2022.*

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. The deduction for charitable donations is meant to encourage contributions that benefit the public. With donor-advised funds, the donor gets the deduction now, but the charitable benefit may not happen for years.

Are there any reforms to donor-advised funds that should be considered?

Answer. Donor-advised funds are important charitable giving vehicles worthy of serious conversations within the sector and with policymakers about whether there is opportunity to improve their operation and oversight. Upon the introduction of the Accelerating Charitable Efforts Act (S. 1981), Independent Sector brought the legislation and other associated policies to our public policy committee, and hosted a series of webinars to educate, present multiple perspectives, and hear reactions directly from the charitable sector. We will use the information we heard from experts, researchers, our network, and colleague organizations to evaluate any proposals using three key perspectives. We believe that any legislation in this area should (1) protect public trust in philanthropy and the broader nonprofit sector; (2) improve equitable practices in philanthropy; and (3) preserve the amount of charitable resources flowing into the sector.

President Biden's Fiscal Year 2023 budget request includes a proposal limiting the ability of a private foundation distribution to a donor-advised fund to be considered a qualifying distribution for the purposes of its annual five percent payout requirement. Independent Sector believes that public trust is a critical asset for our sector, and it is important that nonprofits uphold the spirit of the laws that govern them—including the 5-percent payout rule for private foundations—to help preserve that trust. We appreciate the President's budget request recognizing that policy change is needed to address this issue. We look forward to working with policymakers, alongside other philanthropic and charitable organizations, to determine if this specific proposal is the best solution for philanthropy, grantees, and communities.

Question. We have heard that reforms which require tracking when donations come in and when they are distributed from donor-advised funds can be an administrative burden.

Do you have ideas for ameliorating any administrative burden that may exist?

Answer. We appreciate your focus on reducing administrative burden for nonprofit organizations in this context and others. Although I am not an expert in this area, it is my understanding that charitable nonprofits that sponsor a donor-advised fund do generally have policies on inactive funds, which necessitate some tracking of donations. Any new reporting or tracking requirements that impose a cumbersome administrative burden would take away from the resources of the organization needed to support their charitable mission. Independent Sector would be glad to work with you and other organizations in our sector to reduce the administrative burden of any policy changes.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. In December 22, 2020, I released the results of an investigation conducted by my staff into the relationship between World Vision, a 501(c)(3) non-profit organization, and the Islamic Relief Agency, which had been sanctioned by the U.S. Government. My investigation concluded in part, "A more robust and fundamentally sound system of screening and vetting is needed to restore the public's trust that contributions to World Vision are not funding illicit organizations." The full results of that investigation are available on my webpage here: *https://www.grassley.senate.gov/news/news-releases/grassley-releases-results-investigation-world-vision-s-interactions-isra.*

Do you believe that charities have implemented adequate safeguards to ensure that grants from the U.S. Government and donations from Americans are not even inadvertently funneled to the benefit of individuals or groups that have been sanctioned by the U.S. Government? Are there additional steps charities can take to ensure they are in compliance with applicable rules and regulations, or is there any action Congress should take to promote that compliance?

Answer. Following leadership from you and Senator Baucus, Independent Sector convened a panel to examine good governance and ethical practices for the nonprofit sector, which resulted in the publication of the 2007 report *Principles for Good Gov-*

ernance and Ethical Practice, A Guide for Charities and Foundations. This report was updated in 2016 with additional recommendations. Good governance through self-regulation is critical to the health of American civil society, but it is not sufficient on its own. Although the nonprofit sector can accomplish a great deal through shared standards and self-regulation, nonprofits also need State and Federal regulators to have enough resources to enforce laws that guard against fraud and abuse, because scandal often negatively impacts public trust in the entire sector.

Independent Sector supports strong enforcement against those that violate the laws governing our sector, and would be pleased to work with you and the Senate Finance Committee to examine appropriate safeguards and compliance policies.

Question. In an article published in 2020 in the *Maryland Law Review,* Professor Johnny Rex Buckles concludes in part, "Federal tax law permits foreign actors to influence U.S. politics and policies through their interactions with American charities."[9] He goes on to note in his conclusion, "Even the existing restrictions on lobbying, and the prohibition against political campaign intervention, safeguard against only the most obvious exploitation of charities by politically motivated foreign actions."[10]

In a theoretical case study, the article presents an example where a Russian oil baron donates to a U.S. charity that educates the American public on the dangers of fossil fuels with the intent of promoting increased regulation of U.S. fossil fuel interests that would serve to confer a comparative advantage on their Russian competitor.

This example may in fact not be very theoretical. In an opinion piece published in *The Hill* in March of 2022, Institute for Policy Innovation resident scholar Merrill Matthews wrote, "U.S. policymakers are finally realizing that Russia may have been covertly funding U.S. environmental organizations to shape public opinion and policies—especially energy and anti-fossil fuel policies—to Russia's liking and benefit. Such Russian skullduggery has long been an open secret in Europe."[11]

Do you have concerns that foreign actions are able to exploit U.S. tax-exempt organizations to promote their own priorities and extend influence over U.S. policy?

Are there reliable measures of how much foreign money is poured into U.S. nonprofit entities and the source of that funding?

Do you have an estimate of funding for U.S. non-profits that originated from sources aligned with Russia, or Russian policy priorities?

Answer. Foreign influence in U.S. politics and policy presents unique concerns and challenges and the nonprofit sector must be mindful and vigilant to prevent illegal activity. The Foreign Agents Registration Act (FARA) and Department of Justice enforcement are vital to protecting against illicit activity. With that said, we do believe that FARA is badly outdated and that portions of it are overly broad and vague. At a recent hearing before the U.S. House of Representatives Committee on the Judiciary, Nick Robinson of the International Center for Not-for-Profit Law testified that, "FARA's notoriously sweeping provisions have increasingly interfered with the operations of nonprofits, businesses, media, religious institutions, universities, and others with limited or no connection to foreign governments in a manner that Congress never intended. . . ."[12]

We do not have specific detail about Russian spending or Russian policy priorities in the United States. As noted above, Independent Sector has published detailed recommendations for Good Governance and Ethical Practice for nonprofits to follow, including recommendations for transparency in their activities, to ensure nonprofits are acting in accordance with the law and ethical guidelines. Independent Sector is willing to work with you and the Congress to review these practices and continue to ensure nonprofits act ethically and are not used inappropriately.

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[9] Johnny Rex Buckles, "Curbing (or Not) Foreign Influence on U.S. Politics and Policies Through the Federal Taxation of Charities," *Maryland Law Review,* Vol. 79:590 (2020).

[10] *Id.*

[11] Matthews, Merrill, "Russia used 'soft power' to influence EU policies and anti-fossil fuel efforts," *The Hill,* March 22, 2022, available at *https://thehill.com/opinion/energy-environment/599113-russia-used-soft-power-to-influence-eu-policies-and-anti-fossil.*

[12] Enhancing the Foreign Agents Registration Act of 1938, House Committee on the Judiciary, April 5, 2022.

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Senators from all over the United States sit on this committee, and one thing we all have in common is an appreciation for the important work the nonprofit sector performs in each of our States. If the past 2 years have taught us anything, it is that the nonprofit sector is vital to our communities across the country.

In Idaho, charitable organizations stepped up to serve Idahoans when they needed it the most during the darkest days of the pandemic. The nonprofit sector adapted to the COVID–19 situation incredibly well, often fulfilling their missions with fewer resources and volunteers or even canceled events, all while ensuring the communities they serve were being helped.

But it is not just COVID-related responses that are worth mentioning. Whether it is responding to a natural disaster, food insecurity, or providing mental health services, nonprofits across the country have done a wonderful job. They deserve our thanks, our praise, and our commitment to continued support. According to a 2021 report by the Giving USA Foundation, charitable giving in the U.S. exceeded $470 billion in 2020—a 5-percent increase over 2019.

The vast majority of giving comes from individuals, but contributions and impacts from corporations, foundations, and even estates cannot be overlooked. While data on charitable giving are encouraging, more can be done to encourage giving moving forward. Charitable giving and accompanying tax incentives are inextricably linked. Fortunately, the Senate has a track record of bipartisan cooperation on this issue.

On the Finance Committee, Senators Lankford, Scott, and Cortez Masto have been leaders in crafting bipartisan legislation to help increase charitable giving. I look forward to hearing about how we can continue to work together on bipartisan tax policies to responsibly encourage giving. As the Senate committee charged with considering changes to the tax code, we also have an obligation to look ahead and pay attention to shifts in the charitable giving landscape.

For example, the increasing prominence of crowdfunding and the rise of digital assets present challenges and opportunities for the nonprofit sector. I am also interested in hearing about educational efforts to encourage more giving. It is essential that we think through these issues and ensure we are being proactive about new developments and trends on the horizon.

To our four witnesses, thank you for being here. Each of you has a unique background and perspective. I appreciate your willingness to share your expertise with us this morning, and I look forward to a productive exchange.

SUBMITTED BY HON. JAMES LANKFORD,
A U.S. SENATOR FROM OKLAHOMA

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March 16, 2022

The Honorable James Lankford
United States Senate
Washington, DC 20510

RE: Senate Finance Committee Hearing "Examining Charitable Giving and Trends in the Nonprofit Sector"

Dear Senator Lankford,

On behalf of the Oklahoma Center for Nonprofits and the 11,207 charitable nonprofits in our state, I write in advance of the upcoming hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector," to express strong support for your legislation, the Universal Giving Pandemic Response and Recovery Act, S. 618, to improve this important charitable giving incentive. I also would like express our appreciation for your past support for pandemic relief, as well as update you on the ongoing challenges that nonprofits are facing, and explain the need for additional targeted relief within the jurisdiction of the Senate Finance Committee.

In the face of the ongoing public health and economic crises, too many Oklahoma nonprofits are still struggling to meet increased demands for services, confronting a combination of decreased revenue, expenses that are higher than pre-pandemic, and nonprofit workforce and volunteer staffing shortages. See the results of the National COVID–19 Community Impact Survey [1] administered by the Federal Reserve System. The relief provided by Congress made the difference for many organizations by replacing revenues lost due to declines in individual and corporate giving, fees for service, and canceled fundraising events. The largest of these by far was forgivable loans under the Paycheck Protection Program. Nearly 3,500 Oklahoma nonprofits received about $430 million in forgiven PPP loans in 2020 and 2021, according to Small Business data.[2] Those funds saved more than 70,000 nonprofit jobs, the SBA reports, which enabled these organizations to serve our communities. However, the PPP program and most other pandemic relief programs have expired, yet the need for, and burdens on, charitable organizations remain great.

With the above context, I now address three areas of challenges that nonprofits are facing and propose tax policy solutions for your consideration: the lack of resources, the lack of staff, and the lack of volunteers—all of which are essential to advancing nonprofit missions.

Charitable Giving Has Not Kept Up

Charitable giving nationwide has not kept up with need and rising expenses. The 2021 Giving USA report [3] found that individual giving decreased by nearly 0.8 percent in 2020 compared with 2019, when one major donor's contributions are removed from the data. A separate analysis, the Nonprofit Trends and Impacts 2021 [4] from the Urban Institute, found that small nonprofits were under particular stress. "Forty-two percent of organizations with budgets under $500,000 experienced decreased donations in 2020, compared with 29 percent of organizations with budgets of $500,000 or more." Nonprofits that said donations were essential to their revenue stream were also more likely to experience decreased donations in 2020.

Tax Policy Solutions

In the aftermath of virtually every natural disaster since Hurricane Katrina, Congress has recognized the value of nonprofit relief and recovery efforts by enacting charitable giving incentives that encourage some individuals and corporations to help cover some of the costs of these community-based services. The COVID–19 pandemic and resulting economic crisis have certainly qualified as natural disasters and Congress—a bipartisan body—swiftly enacted giving incentives for those who itemize and corporations. Recognizing the catastrophic impact of health and economic crises, Congress went further by enacting, and then expanding and extending, the universal charitable or nonitemizer deduction to ensure that all taxpayers, including those who claim the standard deduction received a tax benefit for giving back to their communities by supporting the work of charitable nonprofits.

As a sponsor of the Universal Giving Pandemic Response and Recovery Act, S. 618, you better than most recognize the benefits of the nonitemizer charitable giving incentive. The Oklahoma Nonprofit Center fully endorses this important legislation because it will further promote giving by all American taxpayers—regardless of their income—to give to the work of charitable nonprofits, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. **We stand with in your commitment to S. 618 and encourage your colleagues to join you in supporting this bill to strengthen our communities.**

During the Finance Committee hearing on Thursday, we also ask that you speak up in support of extending the two additional disaster-relief giving incentives that expired on December 31, 2021—the provision permitting individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income and the

[1] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*
[2] *https://www.pandemicoversight.gov/data-interactive-tools/interactive-dashboards/paycheck-protection-program.*
[3] *https://store.givingusa.org/pages/annual-subscription.*
[4] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*

measure allowing corporations to deduct charitable donations up to 25% of taxable income.

Nonprofit Workforce Shortages Crisis

One of the greatest challenges that nonprofits of every type of mission are experiencing is the inability to hire and retain qualified workers. The Federal Reserve survey, referenced above, found that 40% of responding organizations reported that staffing levels are down. As of December 2021, the nonprofit sector was still more than 450,000 employees short of pre-pandemic levels, according to the report COVID–19 Jobs Update, December 2021[5] from the Center for Civil Society Studies at Johns Hopkins University. The report found, "as of the end of 2021, nonprofits have recovered approximately 72.1% of the jobs estimated to have been lost as of May 2020."

This past fall, the National Council of Nonprofits conducted a survey of the difficulties nonprofits across the country were confronting in retaining staff and filling vacancies. Three out of five (60%) survey respondents reported vacancies of between 10% and 30%, according to the NCN report, The Scope and Impact of Nonprofit Workforce Shortages,[6] published in December. Another 16% reported vacancies greater than 30%. Nationwide, nonprofits explained the causes of the vacancies as salary competition, typically with employers outside the nonprofit sector (79%) and the inability of potential employees to find child care (23%).

Tax Policy Solutions

The Oklahoma Center for Nonprofits and dozens of Oklahoma nonprofits joined more than 1,500 organizations from all 50 states in signing onto the recent letter to Congress and the Administration seeking Pandemic and Workforce Shortage Relief for Charitable Nonprofits.[7] Among other things, that letter calls on Congress to address critical staffing shortages at nonprofits by retroactively restoring the **Employee Retention Tax Credit,** as proposed in the bipartisan ERTC Reinstatement Act (S. 3625), and extend this refundable payroll tax credit through 2022. To address the impact of the unique impact of nonprofit workforce shortages on individuals and communities, we ask that you modify nonprofit eligibility under the ERTC beyond the current "gross receipts" test to ensure more nonprofits qualify. We also request that Congress revise the definition of eligible payroll expenses under the ERTC to include child care and education subsidies to reflect the increased costs charitable organizations experienced as they struggle to maintain or expand services. We believe this improvement is justified because, unlike for-profit employers, tax-exempt nonprofits are not currently able to receive income-tax relief for providing those employee benefits. Our proposal provides a level of tax fairness and parity that does not currently exist.

Volunteers Have Not Returned

A unique aspect of charitable organizations is that they can expand their impact by leveraging the commitment of armies of volunteers who are dedicated to the work of nonprofits in their communities. Pre-pandemic estimates by AmeriCorps[8] indicate that the volunteerism rate in Oklahoma was 32.0%, contributing 94.5 million hours of service. Nationally and in Oklahoma, nonprofits reported throughout the pandemic that volunteerism dropped precipitously. Now, however, as many businesses return to public operations, many nonprofits still have not seen their volunteers return to pre-pandemic levels. Volunteering is still depressed—parents have additional family demands, older Oklahomans and others from vulnerable populations have safety concerns with returning to in-person volunteering, and in general people are stressed and have reduced time and energy to volunteer.

Tax Policy Solutions

As discussed in the recent nonprofit letter on policy priorities,[9] Congress can incentivize volunteerism by eliminating unfair tax policies. Specifically, we seek an in-

[5] *https://ccss.jhu.edu/december-2021-jobs/.*

[6] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

[7] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

[8] *https://americorps.gov/sites/default/files/document/Volunteering_in_America_States_508.pdf.*

[9] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

crease in the Volunteer Mileage Rate for nonprofit volunteer drivers to the government rate (58.5 cents/mile) for 2022 and the elimination of the tax on mileage reimbursements up to the business rate. The rapid increase in gas prices mean that many nonprofits will need to reimburse their volunteers for driving on the charity's behalf. Yet, those drivers will be forced to pay income tax on any reimbursement rate greater than the volunteer mileage statutory rate of 14 cents per mile. This existing tax policy, enforced at both the federal and state levels, imposes a disincentive on all but the most well-off volunteers. It is unfair, harmful to the missions of charitable organizations, and must be changed.

American Rescue Plan Act Resources

Before closing, I want to raise an important issue that, while not within the Finance Committee's jurisdiction, is of critical concern to the charitable nonprofits in our state. The American Rescue Plan Act allocated $3.2 billion to governments in Oklahoma through the Coronavirus State and Local Fiscal Recovery Fund. The federal government is showing tremendous trust that governments closest to the people and their problems are best positioned to decide the best ways to spend their allocated resources to meet local needs. While available for many purposes, the statute and Treasury Department regulations make abundantly clear that governments at all levels may use these funds in partnership with charitable nonprofits to address many challenges in our communities. The Oklahoma Center for Nonprofits is actively engaged in working with state and local officials to ensure the money is properly invested. We ask that you and your Senate colleagues allow these ARPA funds to go to the state and local governments as scheduled so that we may achieve greater impact.

Conclusion

As you consider the issues raised during the Finance Committee hearing, we ask that you reflect in the important, sustaining work that Oklahoma nonprofits performed throughout the pandemic and recognize that our challenges are far from over. Most for-profit businesses and government offices have or soon will reopen to something amounting to normal business. Most charitable organizations—particularly those addressing the immediate needs of our residents—never closed their doors. Yet, at this stage in the pandemic when demand for nonprofit services remains high, Oklahoma's nonprofits remain short of resources to meet normal as well as pandemic-related expenses. But we don't just lack adequate resources; our nonprofits lack the staff and volunteers to meet the very high needs, which is resulting in waiting lists, denial of services, and outright closures of local nonprofits. In light of these compelling challenges, we ask that you champion tax-policy solutions, at the hearing and in the Senate, that will restore and enhance the charitable giving incentives and the Employee Retention Tax Credit, and remove tax disincentives for volunteers to support the missions of nonprofits in their communities.

Respectfully,

Marnie Taylor
President and CEO

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March 16, 2022

The Honorable James Lankford
United States Senate
Washington, DC 20510

RE: Support for the Universal Giving Pandemic Response and Recovery Act, S. 618

Dear Senator Lankford:

In testimony submitted today to the Senate Finance Committee in advance of the hearing, "Charitable Giving and Trends in the Nonprofit Sector, "the National Council of Nonprofits enthusiastically endorsed the Universal Giving Pandemic Response and Recovery Act (S. 618) that you have sponsored and championed for the past two-and-one-half years. Sec the full statement. We are honored to join the more than 1,500 organizations that signed the Nonprofit Community Letter on the Pandemic and Workforce Shortage Relief for Charitable Nonprofits, updated March 14th, that also endorsed your legislation.

In preparing for Thursday's Finance Committee hearing, several state associations of nonprofits sent letters to their Senators on the Committee. Below are the statements endorsing S. 618 submitted as of early this afternoon We anticipate that more are coming.

Colorado Nonprofit Association

"Colorado Nonprofit Association unequivocally supports renewal of the universal charitable deduction at least through 2022 and expansion through **Universal Giving Pandemic Response and Recovery Act** (S. 618). Passing this act will promote further giving by all American taxpayers of all incomes and generate needed resources for charitable and faith-based organizations to continue serving communities impacted by the pandemic."

Delaware Alliance for Nonprofit Advancement

"Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Idaho Nonprofit Center

"We want to be clear that the Idaho Nonprofit Center strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Maryland Nonprofits

"We want to be clear that Maryland Nonprofits strongly supports extension of the universal charitable (non-itemizer) deduction at least through 2022. Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Michigan Nonprofit Association

"As a cosponsor of the **Universal Giving Pandemic Response and Recovery Act,** S. 618, you know well the benefits of the nonitemizer charitable giving incentive. Like you, the Michigan Nonprofit Association fully endorses this important piece of legislation because it will further promote giving by all American taxpayers—regardless of their income—to give to the work of charitable nonprofits, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. We ask that you make a strong statement in support of S. 618 during Thursday's hearing and encourage your colleagues to join you in supporting this bill to strengthen our communities."

Montana Nonprofit Association

"Montana Nonprofit Association strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. We fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

North Carolina Center for Nonprofits

The North Carolina Center for Nonprofits strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. Indeed, the Center fully endorses the **Universal Giving Pandemic Response and Recovery Act** (S. 618) because it will further promote giving by *all* American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those who continue to be affected by the ongoing pandemic."

New Hampshire Center for Nonprofits

"We are grateful for your co-sponsorship of the **Universal Giving Pandemic Response and Recovery Act,** S. 618. The NH Center for Nonprofits fully endorses this important piece of legislation because it will further promote giving by all taxpayers, regardless of their income, to donate to charitable nonprofits. **We ask that you consider speaking in support of S. 618 during Thursday's hearing and encourage your colleagues to join you in supporting this bill.**"

New Jersey: Center for Nonprofits

The Center for Non-Profits strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. We fully endorse the bipartisan **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically affected by the ongoing pandemic.

Oklahoma Center for Nonprofits

"As a sponsor of the **Universal Giving Pandemic Response and Recovery Act,** S. 618, you better than most recognize the benefits of the nonitemizer charitable giving incentive. The Oklahoma Nonprofit Center fully endorses this important legislation because it will further promote giving by all American taxpayers—regardless of their income—to give to the work of charitable nonprofits, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. **We stand with in your commitment to S. 618 and encourage your colleagues to join you in supporting this bill to strengthen our communities.**"

Oregon: Nonprofit Association of Oregon

"We want to be clear that the Nonprofit Association of Oregon strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Pennsylvania Association of Nonprofit Organizations

"The Pennsylvania Association of Nonprofit Organizations strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022. Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. This measure is critical as individual giving makes up 78% total charitable giving in the United States."

South Carolina: Together SC

"As a cosponsor of the **Universal Giving Pandemic Response and Recovery Act,** S. 618, you know well the benefits of the nonitemizer charitable giving incentive. Like you, Together SC fully endorses this important piece of legislation because it will further promote giving by all American taxpayers—regardless of their income—to give to the work of charitable nonprofits, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. **We ask that you make a strong statement in support of S. 618 during Thursday's hearing and encourage your colleagues to join you in supporting this bill to strengthen our communities.**"

Virginia: Center for Nonprofit Excellence (CNE) and NetworkPeninsula

"Indeed, we fully endorse the **Universal Giving Pandemic Response and Recovery Act,** S. 618, because it will further promote giving by all American taxpayers—

regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic."

Washington Nonprofits

Letter to Senator Cantwell urging Congress to "Renew of the universal charitable (non-itemizer) deduction for 2022 and significantly increase the cap on the deduction, as proposed in the bipartisan **Universal Giving Pandemic Response and Recovery Act.**"

Senator Lankford, we thank you for our leadership and determination in advancing the work of charitable organizations by promoting greater charitable giving tax incentives. We will continue to work closely with our colleagues at the Oklahoma Center for Nonprofits to promote this important legislation.

Regards,

Tim Delaney
President and CEO

NATIONAL PHILANTHROPIC TRUST

The Honorable James Lankford
United States Senator
316 Hart Senate Office Building
Washington, DC 20510

Dear Senator Lankford,

On behalf of National Philanthropic Trust (NPT), thank you for the leadership you have shown, along with Senator Chris Coons, advocating for S. 618, the *Universal Giving Pandemic Response and Recovery Act.* The legislation expands and extends the current deduction for charitable giving at a critical time for nonprofits. As you know, charities are on the front lines battling the effects of the COVID–19 pandemic, and S. 618 would increase charitable donations and make sure nonprofits have the resources they need to aid local communities recover from the pandemic.

NPT is a public charity and the largest national, independent provider of donor-advised funds (DAFs). Since our founding in 1996, our donors have made more than 492,000 grants totaling $17.5 billion to charities across the United States, including Oklahoma. NPT's donors have responded to the turbulent past two years by substantially increasing their dollars to the nonprofit sector. In the 2021 fiscal year, NPT's donors more than doubled their giving by dollar value, committing $6.4 billion to nonprofit organizations.

In Oklahoma, over the last five years, NPT made charitable grants to 298 charities in the state across 47 cities—totaling more than $23 million (please see the attached map highlighting NPT's grants in the state). Our charitable grants in Oklahoma ranged from Edmond to Owasso to Tulsa to Oklahoma City to Broken Arrow. In fact, NPT's grants in Oklahoma increased 70 percent during the pandemic—underscoring the responsiveness of our donors to the needs of Oklahomans and local communities. Nonprofit organizations that received NPT grants include City Rescue Mission in Oklahoma City, Folds of Honor Foundation in Owasso, and the Oklahoma School of Science and Mathematics Foundation, to name a few.

As a DAF sponsor, we are particularly supportive that S. 618 would allow gifts to DAFs in the universal charitable deduction provision. We not only believe this is good tax policy, but it will also help enhance charitable giving and grantmaking to local nonprofits.

Thank you, Senator Lankford, for your commitment to the charitable sector and for your leadership advancing S. 618. We stand ready to work with you and the Senate Finance Committee to advance this important piece of legislation.

Sincerely,

Eileen R. Heisman
President and CEO

ATTACHMENT

National Philanthropic Trust
Your partner in giving

Oklahoma

	Grants	Charities	Cities	Total
Statewide*	1,862	298	47	$23,875,428

BROKEN ARROW:
Margaret Hudson Program: A $6,000 grant provides comprehensive academic and family support services to help young mothers succeed in life and parent healthy families

EDMOND:
Oklahoma Geological Foundation: A $20,000 grant helps support Earth science education at all grade levels through scholarships, teacher training and more

OKLAHOMA CITY:
Allied Arts: A $10,000 grant helps support the operating, programmatic and educational budgets of local nonprofit arts organization

City Rescue Mission: A $1,000 grant helps provide COVID-19 assistance and support for the homeless

Oklahoma School of Science and Mathematics Foundation: A $17,500 grant supports COVID-19 testing for students, faculty and staff

Regional Food Bank of Oklahoma: A grant of $30,000 helps support a network providing nutritious food and pathways to self-sufficiency

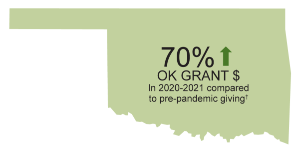
OWASSO:
Folds of Honor Foundation: A $10,000 grant helps provide scholarships to spouses and children of America's fallen and disabled service members

PONCA CITY:
Ponca City Humane Society: A $10,000 grant helps reunite lost pets with their owners, find homes for abandoned cats and dogs, and provide low cost spay/neuter service

TULSA:
Oklahoma Project Woman: A $10,000 grant helps provide free mammograms, diagnostic procedures and surgical services for Oklahomans without health insurance and limited financial resources

Tulsa Area United Way: A grant of $10,000 helps strengthen community through agency partnerships and ongoing work in health, quality of life, workforce development, education, family assistance and housing and homelessness prevention

Tulsa Community Foundation: A $10,000 grant supports emergency and disaster relief, nonprofit organizational capacity, and grantmaking funds for the arts, health, human services and education



†(2018 – 2019)

*Grants from 1/1/2016 – 12/31/2021

PHILANTHROPY ROUNDTABLE
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Washington, DC 20036
main@PhilanthropyRoundtable.org
202–822–8333

The Philanthropy Roundtable supports S. 618, the Universal Giving Pandemic Response and Recovery Act. We applaud the bipartisan leadership of Senators Lankford and Coons, along with the cosponsors, for introducing this measure.

In a time of pandemic recovery, international crisis and economic struggles at home and abroad, Americans are stepping forward to help those in need. This bill is crucial to ensuring our nation's generous spirit continues to grow and thrive by allowing a deduction for charitable contributions for taxpayers who do not otherwise itemize their tax deductions.

The bill in its entirety is a positive for those who care about our vibrant charitable landscape, the donors that support it and all of us who benefit from the important work of charities today. We have seen the vital impact of prior universal charitable deduction measures. Included in the 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act, a version of this temporary tax benefit applied to tax-year 2020. Then the Taxpayer Certainty and Disaster Tax Relief Act of 2020 generally extended it through the end of 2021. Thanks to these measures, charitable giving reached a record high of $471.44 billion in 2020, according to Giving USA's 2021 report. Other data show significant increases in smaller gifts. The Fundraising Effectiveness Project found that gifts under $250 grew by 15.3% in 2020 compared to 2019 and noted a 28% increase in $300 gifts on December 31st, the exact amount allowed for a deduction under the prior measure.

As earlier temporary universal charitable deduction measures expire, S. 618 offers even more encouragement for charitable giving. By allowing donor-advised fund (DAF) gifts to be eligible for a deduction, the bill appropriately acknowledges the key role that DAFs play in this landscape.

According to data from the National Philanthropic Trust for the 2020 fiscal year, DAF donors stepped up in a year of pandemic, social and economic crises. Grants out of DAFs rose to $34.67 billion from $27.29 billion, an astounding 27% in 2020 compared to the prior fiscal year. Contributions into DAFs rose as well, by 20.6%.

These numbers illustrate America's rainy-day fund in action as donors increased the amounts distributed out of DAFs to charities at a higher rate than they increased their giving into DAFs—all of which is irrevocably dedicated to charitable giving.

While DAF donors meaningfully increased their already high payout rates during 2020 to nearly 24%, we are already facing new economic challenges. Our communities have needs now and will face new, unpredictable problems in the future. Allowing donors to continue growing charitable assets while also paying out at strong rates is one of the most powerful features of DAFs as a giving vehicle.

With the growing popularity of DAFs as a tool for giving, the associated tax benefits should not be limited to those that itemize their tax deductions. All generous Americans should be allowed to deduct their charitable giving through DAFs.

Now, more than ever, S. 618 is vital to foster the generosity of Americans and to support our charitable sector as it works to address the significant challenges before us. We applaud Sen. Lankford, Sen. Coons, and the bipartisan group of senators who support this important legislation for their leadership and thank them for their support of the charitable sector.

PHILANTHROPY SOUTHWEST
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Dear Chairman Wyden, Ranking Member Crapo, Senator Lankford, and Members of the Committee, Philanthropy Southwest welcomes the opportunity to provide input to the Committee on Examining Charitable Giving Trends for the Nonprofit Sector. Founded in 1949, Philanthropy Southwest, the first association of grantmakers in the nation, believes in a thriving Southwestern U.S. through the power of philanthropy. We are a vibrant network comprised of hundreds of grantmaking organizations and thousands of foundation trustees and staff in the U.S. Southwestern region.

Philanthropy Southwest understands the importance of protecting and enhancing the charitable deduction to ensure that charities across our nation continue to receive the funds necessary to serve their communities and fulfill their philanthropic missions. Inspired by the words of former President John F. Kennedy, "Philanthropy, charity, giving voluntary and freely . . . is truly a jewel of an American tradition."

Altruism is good for all, and the charitable deduction is not only good tax policy, but it also encourages all Americans, regardless of income, to give. According to recent Giving USA data, U.S. nonprofits and foundations have stepped up like never before in response to the COVID–19 pandemic giving to charitable organizations supporting their neighbors in need. This increased level of giving is attributed to a robust charitable deduction for itemizing and nonitemizing taxpayers. For example, the Fundraising Effectiveness Project report found that there has been an outsized increase in small gifts of $250 or less, and there was a reported 28% increase of $300 gifts on December 31, 2020, the maximum amount a donor can take using a universal charitable deduction. This increase shows the impact of the universal charitable deduction on smaller gifts.

With the current charitable deduction being only available for itemizing taxpayers, it forecloses the opportunity for more charitable giving. The 2020 COVID relief legislation provided a temporary benefit for nonitemizers to deduct their charitable contributions through 2021, thus reducing the economic costs to the donor. The renewal of this temporary universal charitable deduction could result in nearly 9 and 10 taxpayers being able to deduct their charitable giving even if they do not itemize, democratizing the incentive for charitable giving.

Philanthropy Southwest supports the reenactment of a universal charitable deduction for non- itemizing taxpayers. The Universal Giving Pandemic Response and Recovery Act **(S. 618, H.R. 1704),** which renews the universal charitable deduction and increases the cap to one-third of the standard deduction, would provide donors and charities alike with the certainty they need to continue giving freely to the vital organizations in their communities and across the globe.

On April 5th–7th, the philanthropic sector will convene virtually in support of philanthropy for Foundations on the Hill, an annual convening for the sector. This premier gathering presents an opportunity to speak to Congress about critically important legislation for the charitable sector and inform congressional leaders about the unique and important role that charitable giving plays in America. Our U.S. Southwest delegation of foundation leaders will be informing congressional offices about the importance of reenacting the universal charitable deduction and looks forward to partnering with government around efforts to preserve and protect charitable giving for all.

FAITH & GIVING

MARCH 17, 2022

The Honorable James Lankford
U.S. Senate
316 Hart Senate Office Building
Washington, DC 20510

Dear Senator Lankford:

The undersigned faith-based organizations write to thank you for your long-term leadership to add a universal charitable deduction (UCD) for non-itemizers to the tax code and for your work to enact the Universal Giving Pandemic Response and Recovery Act (S. 618). We are deeply grateful to you and the bill's other lead sponsors—Senators Coons, Lee, Shaheen, Tim Scott, Klobuchar, Collins, and Cortez Masto—as well as to the other cosponsors who sit on the Finance Committee, Senators Stabenow, Hassan, and Brown.

Thank you as well for your vital roles in enacting a temporary UCD in the March 2020 CARES Act—and later extending it through 2021 and doubling it for joint filers. Your diligent leadership ensured this vital lifeline for the work of faith-based and other charities was available to millions of generous Americans of all faiths.

The charitable deduction works. As one vivid example, the charitable deduction's benefits and incentives may be the only reasonable explanation why approximately 10 percent of annual giving occurs during just the last three days (0.8 percent) of each year.[1]

Similarly, after Congress enacted the $300 UCD in 2020, the Fundraising Effectiveness Project (FEP) reported that year-to-year annual donations of less than $250 increased from the previous year's levels by 15.3 percent.[2] Flipping the normal pattern for giving during a crisis, this was nearly 1.5 times greater than the increase (10.4 percent) that year in large donations ($1,000 or more). As FEP Chair Jon Biedermann stated, "One factor that may have helped the increase in smaller gifts was the universal charitable deduction."[3]

Further, as compared with 2019, there was a 28 percent increase in $300 donations on the final day of 2020.[4] This is the exact amount of the universal charitable deduction for 2020.

For these and many other reasons, we believe Chairman Wyden is spot on when he explains, "The charitable deduction is a lifeline, not a loophole."[5]

Congregations and other faith-based organizations around the country got the word out in 2020 and 2021 about the temporary UCD. They wanted to ensure non-iteming givers received the UCD's benefit. But ministry leaders also know the deduction helps increase giving by generous individuals. Giving by individuals is the financial lifeblood of many faith-based charities.

Today, religious giving is subject to multiple negative pressures Congress can help counter by restoring an expanded and extended UCD. One such pressure is the per-

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[1] Digital Giving Index, Network for Good, *https://beta.networkforgood.com/wp-content/uploads/digitalgivingindex_2015-1.png* (covering 2015 giving).

[2] "Fundraising Effectiveness Project: Giving Increases Significantly in 2020, Even as Donor Retention Rates Shrink," Association of Fundraising Professionals (AFP), March 15, 2021, *https://afpglobal.org/fundraising-effectiveness-project-giving-increases-significantly-2020-even-donor-retention-rates.*

[3] *Id.*

[4] *Id.*

[5] "The charitable deduction is a lifeline, not a loophole," Blog Post, U.S. Senator Ron Wyden, April 18, 2016, *https://www.wyden.senate.gov/news/blog/post/ron-the-charitable-deduction-is-a-lifeline-not-a-loophole.*

centage of American households giving to charity, which has declined precipitously over the past two decades.[6]

Further, Giving USA data for 2018 through 2020 (the most recent published data) show annual religious giving has failed to keep pace with inflation. While inflation increased by 5.5 percent in 2018 through 2020,[7] religious giving increased by less than 3 percent.[8]

Adding to the financial impact of these negative trends, congregations and organizations of every faith across America have remained on the front lines caring for the needs of individuals and communities hurt by the pandemic. Through virtual and (where and when possible) in-person connections, congregations and other faith-based charities are serving the escalating physical, emotional/relational, and spiritual needs of the most vulnerable members of our communities.

Unfortunately, the charities caring for our nation's most vulnerable often are the most vulnerable themselves to economic downturns and crises. Many fail to fully recover or even survive.

Restoring an expanded and extended UCD as soon as possible in 2022 will help these smaller congregations and faith-based ministries weather the pandemic's impact while also combating negative long-term trends for religious giving. Moreover, granting lower- and middle-income taxpayers the same sort of generous tax incentive granted to higher-income taxpayers will help increase and democratize giving to all of America's diverse ministries and other charities.

Thank you again for your and your Senate colleagues' dedicated leadership to enact an expanded and extended universal charitable deduction for non-itemizers. Please do not hesitate to contact me (bwalsh@faithandgiving.org) with questions or to help connect with other signers.

Respectfully yours,

Brian W. Walsh, Executive Director

National Faith-Based Signers

Accord Network
Agudath Israel of America
The American Association of Christian Schools
American Leprosy Missions
Association of Christian Schools International (ACSI)
Bread for the World
Catholic Charities USA
CCCU—Council for Christian Colleges and Universities
Center for Public Justice
Children's AIDS Fund International
Christian Alliance for Orphans
Christian Connections for International Health
Citygate Network
Compassion First
Cross International
Dignity Freedom Network
Disabled Children's Fund
ECFA (Evangelical Council for Financial Accountability)
Ethics and Religious Liberty Commission
Faith & Giving
Jewish Federations of North America
Kumveka

[6] "Latest Data Shows New Low in Share of Americans Who Donated to Charity," Lilly Family School of Philanthropy, Indiana University, July 27, 2021, *https://philanthropy.iupui.edu/news-events/news-item/latest-data-shows-new-low-in-share-of-americans-who-donated-to-charity.html?id=363.*

[7] *See* "Inflation, consumer prices for the United States," Federal Reserve Economic Data (FRED), St. Louis Fed, *https://fred.stlouisfed.org/series/FPCPITOTLZGUSA.*

[8] *See* "Giving USA 2018," Press Release, Giving USA Foundation, June 12, 2018 (reporting religious giving of $127.4 billion in 2017), *https://givingusa.org/giving-usa-2018-americans-gave-410-02-billion-to-charity-in-2017-crossing-the-400-billion-mark-for-the-first-time/;* "Giving USA: Giving Grew in a Tumultuous Year but Not for All," *Chronicle of Philanthropy,* June 15, 2021, *https://www.philanthropy.com/article/giving-grew-in-a-tumultuous-year-but-not-for-all-whats-ahead-in-2021* (reporting religious giving of $131.1 billion in 2020, a decrease of 0.2 percent in inflation-adjusted dollars over 2019).

Langham Partnership USA
Lifewater International
Living Water International
Lutheran Services in America
Mennonite Central Committee
National Christian Foundation
Operation One
PastorServe
Plant With Purpose
Sojourners
Union of Orthodox Jewish Congregations of America
Volunteers of America
World Hope International
World Relief
World Vision US

Regional, State, and Local Faith-Based Signers

Baltimore Jewish Council (Maryland)
Church Hill Activities and Tutoring (CHAT) (Richmond, Virginia)
CitiHope International (Delhi, New York)
Great Falls Rescue Mission (Montana)
Jewish Family and Children's Services, San Francisco Bay Area (California)
The Jewish Federation in the Heart of New Jersey (South River)
Jewish Federation of Greater Toledo (Ohio)
Jewish Federation of Southern New Jersey (Cherry Hill)
Jewish Federations of New Jersey (Scotch Plains)
MAP International (Brunswick, Georgia)
Morningstar Mission Ministries (Joliet, Illinois)
Mount Olive Baptist Church (Washington, DC)
Shirley's House of Hope (Marshfield, Wisconsin)
Third Lens Ministries (Atlanta, Georgia)
Youngstown Area Jewish Federation (Ohio)

THE JEWISH FEDERATIONS OF NORTH AMERICA
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March 15, 2022

The Honorable James Lankford
U.S. Senate
Washington, DC 20510

Dear Senator Lankford:

The Jewish Federations of North America (JFNA) would like to express its gratitude to you and Senator Chris Coons for championing the bipartisan Universal Giving Pandemic Response and Recovery Act (S. 618). As the nonprofit sector works to recover from the crippling effects of the COVID pandemic, it is critically important to ensure that Americans who donate to charities and religious organizations receive an above-the-line tax deduction at a level higher than the $300 deduction first enacted in 2020 as part of the CARES Act.

JFNA represents 146 Jewish Federations and over 300 Network communities nationally, including the Jewish Federation of Tulsa and the Jewish Federation of Greater Oklahoma City. Jewish Federations collectively raise and distribute more than $3 billion annually, and in Oklahoma we support the social welfare, social services, and educational needs of those throughout the state and beyond. In Tulsa, the Jewish Federation is the umbrella organization for The Sherwin Miller Museum of Jewish Art and the Charles Schusterman Jewish Community Center. In Oklahoma City, we collaborate with the Edmond Public Schools, the Oklahoma Center for Community and Justice, and United Way of Central Oklahoma.

A significant amount of charitable giving and grantmaking at our Jewish Federations are advanced through donor-advised funds, which is why we strongly support the provision in S. 618 that enhances the non-itemizer provision by including gifts to donor-advised funds. We believe this would allow for more charitable grant-making and assist communities and nonprofits during times of crisis.

Thank you for your leadership on this issue and your steadfast support of the nonprofit sector. We encourage the Senate Finance Committee to support S. 618 and work to pass it soon. Charities in Oklahoma and throughout the country are depending on it.

Sincerely,

Edward J. Beckwith Co-Chair Tax Policy Committee	David Rosen Co-Chair Tax Policy Committee

PREPARED STATEMENT OF SUSANNAH MORGAN,
CEO, OREGON FOOD BANK

Chairman Wyden, Ranking Member Crapo, members of the committee, thank you for the opportunity to share my on-the-ground perspective regarding charitable giving in the nonprofit sector.

My name is Susannah Morgan, and I am the chief executive officer of Oregon Food Bank. Our network is among the largest in the country, with a central warehouse that provides resources to 21 regional food banks—which then support over 1,400 pantries, free food markets and meal sites across Oregon and Southwest Washington.

Our mission is to end hunger and its root causes. To build communities that never know hunger, we need living-wage jobs, affordable housing and childcare, and protection from discrimination. When we hit tough times, we need strong government safety nets, like SNAP, to ensure everyone has access to food. Food banks should be the last resort when other systems have failed—and food alone will never solve hunger.

I have worked in anti-hunger efforts for 26 years across several States, and the past 2 years have been the most challenging in my career. More than 865,000 people sought emergency food assistance through the Oregon Food Bank Network in 2019—nearly 1 in 5 of our neighbors. In 2020, this number rose like a tsunami to a jaw-dropping height of 1.7 million people, and remained painfully high at over a million in 2021.

Even with the outpouring of community support, we couldn't have kept food flowing without significant State and Federal action. As we began to run out of food due to the enormous increase in demand, Governor Kate Brown came through with $1 million a week for food purchases until USDA commodities arrived through the CARES Act. Congressional aid reached communities directly through enhanced unemployment and SNAP benefits, relief payments to families, and more. The Child Tax Credit alone drove down child poverty by an incredible 41 percent [1] and reduced food insecurity by 26 percent.[2] Combined, these actions helped us to meet the crisis head-on and ensure that hunger did not spiral out of control.

Charitable giving incentives were an important piece of this equation as well. Let me share one extraordinary week I had, tied to decisions made by this committee: on a Monday early in the pandemic, my colleague in The Dalles, OR called me over the moon because she had just located the perfect building for a new regional food bank. Purchase price was $750,000. On Wednesday, a local philanthropist expressed interest in making a $1 million donation, thanks in part to tax law changes that allowed 100 percent deduction of her Adjusted Gross Income. On Friday, she committed to fund the purchase of the building, in what is surely the shortest capital campaign ever.

The work of this committee clearly influences expressions of love and generosity in our communities. Yet, from where I sit, it is incredibly important that you consider how future tax policy changes may impact Federal revenue. Even at our scale in Oregon, for every meal we provide, SNAP provides 10. Charity organizations simply cannot replace Federal funding for the programs and resources our families need to thrive.

[1] *https://www.povertycenter.columbia.edu/news-internal/monthly-poverty-january-2022.*
[2] *https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2788110.*

So I humbly ask that you act to strengthen Federal revenue and advance policies that prevent hunger from happening. The best thing Congress can do to reduce hunger is invest in proven solutions that support families directly. Reinstate the Child Tax Credit. Modernize SNAP to reflect the true cost of healthy food. Invest in housing and child care. Raise revenue by requiring the wealthiest corporations, individuals and estates to pay what they owe.

It is important that any new incentives are designed to encourage charitable giving that helps our communities *now*. Hunger is a crisis today and charitable support is needed now—not tucked away for some hypothetical future. Sustain the 100 percent Adjusted Gross Income deduction. Increase the amount private foundations must grant annually. Ensure donor-advised funds held by large commercial wealth firms have minimum annual distributions of 7 to 10 percent and spend-down timelines, while making exceptions for community foundations.

As we speak, our communities face uncertainty around the impact of global events, the cost of living, and whether a new variant might emerge. Hunger remains an epidemic. This isn't over. We need Congress to continue supporting our neighbors through proven policies. I believe that, together, we can still emerge stronger than ever.

It has been an honor to be with you today. Thank you for your time and attention.

QUESTIONS SUBMITTED FOR THE RECORD TO SUSANNAH MORGAN

QUESTION SUBMITTED BY HON. RON WYDEN

Question. Over the past 2 years, Congress has implemented a number of novel policies to make sure charities have the resources they need to continue serving our communities in the midst of the pandemic. These include the non-itemizer charitable deduction, and expanding the Employee Retention Tax Credit and Paid Leave Credit for tax-exempt organizations. Other non-tax programs have also impacted nonprofits, like PPP and various grant programs. In your testimony, you emphasized the importance of these policies as well as direct support to households through the enhanced child tax credit.

Could you provide more detail about how the Oregon Food Bank and the communities it serves benefitted from these tax policies? What lessons can we learn from your experience?

Answer. The rate of hunger surged during the pandemic—and it could have been even worse.

More than 865,000 people sought emergency food assistance through the Oregon Food Bank Network in 2019—nearly one in five of our neighbors. In 2020, this number rose like a tsunami to a jaw-dropping height of 1.7 million people, and remained painfully high at over a million in 2021.

Government help was critical to keep emergency food flowing in 2020. In the first few weeks of the pandemic, despite an outpouring of community support, Oregon Food Bank could not keep up with the enormous demand for food assistance. We began to run out of food. Then Governor Kate Brown came through with $1 million per week for food purchases. Then USDA commodities arrived through the CARES Act.

We believe that it was primarily Federal intervention that drove down the hunger curve in 2021. This intervention took the form of enhanced unemployment and SNAP benefits, relief payments to families, and more. The Child Tax Credit alone drove down child poverty by an incredible 41 percent and reduced food insecurity by 26 percent.

Right now, Congress should reinstate the Child Tax Credit—which was a great idea with proven results in reducing hunger and poverty.

In the next crisis, Congress should again provide immediate assistance—to nonprofits like us and to families directly. Congress should once again increase unemployment benefits, which was in many cases life changing. Congress should once again provide direct payments to families.

Before the next crisis happens, Congress should work with states to ensure that systems like Unemployment Insurance, SNAP, and Pandemic EBT are able to administer benefits quickly. One of the reasons food banks saw such alarming increases in requests for food in the early days of the pandemic was because people who were newly eligible for programs like UI faced weeks—and sometimes even months—of waiting for benefits to be administered. That was unacceptable in 2020, and it would be unthinkable if we let this happen again.

We recommend more immediate action to prevent a housing crisis, such as an eviction moratorium. We recommend targeting cash assistance at families at or below median income with no strings.

Also, as I said in my testimony, it is important that any new incentives are designed to encourage charitable giving that helps our communities now. Hunger is a crisis today and charitable support is needed now—not tucked away for some hypothetical future. Sustain the 100-percent Adjusted Gross Income deduction. Increase the amount private foundations must grant annually. Ensure donor-advised funds held by large commercial wealth firms have minimum annual distributions of 7 to 10 percent and spend-down timelines, while making exceptions for community foundations.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. I appreciate you sharing your "on-the-ground" experiences with us. I was struck by your opening statement, in which you seemed to indicate an overall story of success despite the challenges your organization faced.

What has been the greatest challenge your organization has faced since the pandemic began?

Answer. Oregon Food Bank's greatest challenge during the pandemic has been adaptation.

In the first few weeks of the pandemic, requests for food assistance nearly doubled. We were drawing down our inventory. We moved most of our workforce—except for the warehouse crew and drivers—to remote work. We suspended our massive volunteer program. We watched as food pantries and meals sites across the State lost the core of their volunteers—people 60+—as they went into quarantine. We instituted masking and deep cleaning.

I have never in my life been so consistently afraid. Our community needed us so much—and for those first few weeks, I was so scared we would fail . . . that we would run out of food, or have an outbreak and have to close our warehouse or abandon truck routes, or that food assistance sites would close due to lack of hands.

And yet, we succeeded. We, collectively. Congress came through with the CARES Act, which provided direct support to families and unemployment benefits and SNAP and thus drove down demand. The CARES Act also provided us with a reliable source of USDA commodities. Our community came through with unprecedented generosity, which allowed us to hire more staff, pay hazard pay, buy laptops for remote work and generally afford all this adaptation. And our community came through with new volunteers—younger people who were out of work or working flexible hours from home—to take the place of volunteers who had quarantined.

Question. From your perspective, what is the number one issue you believe this committee should tackle to help support organizations like yours?

Answer. Reinstate the monthly Advance Child Tax Credit and ensure all members of our community can access it. When it went into effect last July, it cut the number of people struggling to afford food by a quarter. When it expired in January, 3.7 million more kids in America went back into poverty. If you want to ensure fewer people in America need to access emergency food, bring back the Advance Child Tax Credit.

QUESTION SUBMITTED BY HON. MARIA CANTWELL

Question. As you're aware, charitable organizations depend on volunteers to help deliver vital programs and services in local communities. However, the number of volunteers in the nonprofit sector have not returned to pre-pandemic levels.

Prior to the pandemic, the annual volunteerism rate in Washington State was over 35 percent, contributing 202 million hours of service valued at nearly $5 billion. In November 2020, the University of Washington reported that volunteerism rates among Washington State nonprofits had decreased by 30–50 percent, harming their ability to operate at full capacity just when their services were needed most.

Nonprofits have been essential to helping or local communities during the pandemic, even as they faced health risks, labor shortages, and operational challenges themselves. I think that it is important that we are able to support charitable nonprofits and address this volunteerism shortage.

Has the Oregon Food Bank experienced a decline in volunteers since the start of the pandemic? How has that impacted your operations and ability to serve Oregonians in need?

Answer. Oregon Food Bank suspended our volunteer program entirely for the first 2 months of the pandemic. In June 2020, we restarted volunteer shifts at a much smaller scale: down to 10–15 people instead of 100—to ensure social distancing.

Oregon Food Bank relies on volunteers to sort donated food and to repack bulk purchased food. So during the pandemic, we also completely stopped accepting food from food drives, because we did not have volunteer labor to sort it. We started purchasing food, such as macaroni, in retail pack sizes instead of bulk—spending more money because we did not have the volunteer labor to repack it. We paid to have apples put into five pound bags instead of asking volunteers to bag apples.

As of early April 2022, we have not yet relaunched our full volunteer program. So 2 years later, we are still spending tens of thousands more dollars annually than we would if we had our prior levels of volunteer assistance.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. When the Tax Cuts and Jobs Act was enacted in 2017, some observers predicted that overall charitable donations would decline as a result of a larger standard deduction.

Has that been the Oregon Food Bank's experience? Have overall charitable contributions and grants to the Oregon Food Bank increased or decreased over the last 5 years? For each of those years, did overall charitable contributions and grants increase or decrease compared to the prior year?

Answer. Total contributions to Oregon Food Bank declined in FY17–18 and FY18–19, and then increased dramatically during the pandemic. With hunger at historically high rates, everyone knew someone who was facing hunger, and our community reached deep and gave with extraordinary generosity.

Here is actual data on Oregon Food Bank's contributions:

	Approximate Number of Donors
FY15–16	37,500
FY16–17	41,500
FY17–18	41,000
FY18–19	3,0000
FY19–20	49,000
FY20–21	65,000

It is also worth noting that the types of giving also shifted. As seen in the data below, we received a much higher rate of IRA and Donor Advised funds after the 2017 Tax Cuts and Jobs Act. Both types of giving are known to be avenues that wealthier, disproportionately white donors utilize—so while the worst year for OFB came directly after the tax adjustment in FY17/18, certain donors were able to tap into assets and continue to receive tax breaks more easily than others.

	IRA Rollover Gifts	**Donor Advised Fund Gifts**
FY15–16	1	311
FY16–17	0	376
FY17–18	12	489

	IRA Rollover Gifts	Donor Advised Fund Gifts
FY18–19	269	633
FY19–20	805	1,455
FY20–21	973	1,904

We would also like to State that no single organization can represent the complex experience of the entire nonprofit sector, including as it relates to charitable giving. For example, I understand that after the election of Donald Trump in 2016, the ACLU was overwhelmed with new supporters. That was not Oregon Food Bank's experience. During times of economic crisis, our communities understand the struggles of their neighbors and tend to give to social services nonprofits—like Oregon Food Bank. Any number of influencing factors—economic, political, tax policies, etc.—may change a single nonprofit organization's experience.

Question. Americans are the most generous people on earth, and overall charitable donations continue to grow, but some have suggested that these donations are not going to working charities like yours as efficiently as possible.

As a representative of a working charity, what is your perspective on this topic and how does the Oregon Food Bank work to ensure that you efficiently utilize your donations?

Answer. The vast majority of Oregon Food Bank's revenue comes from donations from individuals or families. Philanthropic contributions are, in our view, an expression of love—love for our fellow human beings and love for our communities.

We have absolutely no concerns about the efficiency of charitable donations. People write us a check or make an online donation or wire money from their stockbroker. It is generally an easy process and easy (if labor intensive) to track. We thank each and every donor.

We do want to ensure that everyone in America has the opportunity to show love through philanthropy. We are concerned that, while the total charitable giving has increased, the total number of households who give has declined. While several factors are at play, one of these is income inequality and the growing wealth gap.

Finally, we ensure that contributions to Oregon Food Bank are used efficiently—and more importantly effectively—by maintaining an active Board of Directors that is representative of our community and that takes its fiduciary responsibilities seriously.

PREPARED STATEMENT OF UNA OSILI, PH.D., EFROYMSON CHAIR IN PHILANTHROPY AND ECONOMICS, AND ASSOCIATE DEAN FOR RESEARCH AND INTERNATIONAL PROGRAMS, LILLY FAMILY SCHOOL OF PHILANTHROPY, INDIANA UNIVERSITY

My name is Una Osili, and I am the associate dean for research and international programs at the Indiana University Lilly Family School of Philanthropy and the Efroymson chair in philanthropy and economics. I want to thank the distinguished members of the committee for this opportunity to speak today about how the pandemic has influenced charitable giving, how technology has changed the ways people give, and how policymakers can facilitate cross-border giving.

Philanthropy has long been a cornerstone of our nation. Many early Native American giving traditions were rooted in cultural beliefs of mutual responsibility and reciprocity. The Massachusetts Bay Colony led one of the first successful fundraising drives in 1641.

America's longstanding tradition of generosity has persisted over time. The philanthropic sector is a vital part of the provision of public goods, disaster relief, and risk capital for innovation, as well as a contributor to the health and vitality of civil society.

GIVING DURING THE COVID–19 CRISIS

In the past 2 years, giving, both informally and formally, has played a visible role in responding to the pandemic in the U.S. and abroad. Furthermore, during the COVID–19 era, philanthropy has been unprecedented in size, scale, and scope. During this crisis, religious congregations, grassroots organizations, community foundations, and nonprofits in areas such as health and food insecurity have demonstrated resilience and creativity in meeting urgent needs.

It is important to emphasize that charitable giving grew during the first year of a global pandemic, with 2020 being the highest year of charitable giving on record at $471.44 billion.[1] Total philanthropic giving in 2020 rose 5.1 percent over 2019. When we consider inflation, the total amount still increased, with a total increase of 3.8 percent.

Sixty-nine percent of this total—approximately $324.10 billion—was contributed by living individuals. Foundations, charitable bequests, and corporations account for the remaining 31 percent.

Research has long established that charitable giving is linked with key economic and financial factors.

When we examine the subsectors of charitable giving during the pandemic era, two categories of charitable giving saw significant growth in giving in 2020. Public-society benefit organizations showed the largest increase at 15.7 percent, and these organizations include national donor-advised funds, United Ways, and civil rights organizations, among a wide range of nonprofits. Giving to environmental and animal organizations went up by 11.6 percent.

Giving to education also increased by 9 percent, driven by a robust end-of-year stock market. Human services organizations experienced increases in giving, growing by an estimated 9.7 percent, or 8.4 percent adjusted for inflation.

However, not all subsectors experienced growth. Giving to arts, culture, and humanities declined 7.5 percent, or 8.6 percent, adjusted for inflation.

HOW ARE AMERICANS GIVING, AND TO WHOM ARE THEY GIVING?

Initial evidence also suggests that the global COVID–19 pandemic is altering how and why people give.[2] The events of 2020 have accelerated innovation in the ways individuals are participating in philanthropy today and expanded more traditional methods, such as in-kind giving and mutual aid. At the local level, community-based emergency funds have coordinated efforts to avoid duplication and address unprecedented health and economic needs. Informal acts of generosity were also widespread. For example, masks were sewn and gifted to health-care workers,[3] and local restaurants distributed meals.

At the same time, American households have grown in their reliance on technology for connecting with others during the global pandemic; nonprofits have adapted to virtual events, online fundraising, and donor engagement. In 2020, online giving in the U.S. increased by approximately 21 percent compared to 2019.[4] Online giving continued to grow in 2021, with an increase of 9 percent from 2020.[5]

The use of technology interconnected donors and sectors on common platforms. Technology brought donors and many nonprofits together and often maximized contributions through collective giving and matching gifts. It also increased transparency by allowing donors and nonprofits to understand better how funds were being used and their effectiveness. At the same time, technology also presents new challenges for nonprofits who seek to engage donors and build trust and confidence.

In addition to technology, crowdfunding, giving via cryptocurrency, and impact investing have altered fundraising approaches and enlarged volunteer opportunities and donor engagement. Crowdfunding—raising capital from a large and diverse pool of donors via online platforms—is a noteworthy example of innovation in giving mechanisms. Like other forms of online giving, it has expanded in recent years. During 2020–2021, the COVID–19 pandemic, the racial and social justice movement, and economic uncertainty accelerated the use of crowdfunding by individuals to address health and financial hardships and to raise funds for various racial and social justice causes.

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[1] Giving USA Foundation. (2021). *Giving USA: The Annual Report on Philanthropy for the year 2020.* Chicago: Giving USA Foundation. Researched and written by the Indiana University Lilly Family School of Philanthropy.

[2] Wyke, M. (January 22, 2021). "The New Face of Charitable Giving During the Pandemic," *The Wall Street Journal.* Retrieved from *https://www.wsj.com/articles/the-new-face-of-charitable-giving-during-the-pandemic-11611334800.*

[3] Enrich, D., Abrams, R., and Kurutz, S. (March 25, 2020). "A Sewing Army, Making Masks for America," *New York Times.* Retrieved from *https://www.nytimes.com/2020/03/25/business/coronavirus-masks-sewers.html.*

[4] Blackbaud Institute. (2021). *2020 Charitable Giving Report.* Retrieved from *https://institute.blackbaud.com/.*

[5] Blackbaud Institute. (2022). *2021 Charitable Giving Report.* Retrieved from *https://institute.blackbaud.com/.*

Based on a national survey conducted in 2020, a new study examines closely who crowdfunding donors are, how they are different from more traditional charitable donors, and the activities they support and their motivations.[6] The study found that about one-third of Americans typically donate to crowdfunding projects. Motivations for crowdfunding donors are similar to those factors for traditional charitable donors. However, the study also showed that crowdfunding donors tend to be younger and more diverse than traditional donors.

To assess the impact of individual giving during the pandemic, the Lilly Family School of Philanthropy also conducted and examined two comprehensive national surveys on household giving priorities and motivations.[7]

Survey questions explored how COVID–19-related factors may affect charitable giving. These factors include social distancing and lockdowns, COVID–19 infections amongst friends and family, and financial uncertainties incurred. In addition, the surveys asked about motivational factors for giving to COVID–19-related causes. The surveys revealed that self-reported giving of all types among Americans went up by 4–6 percentage points from May to September 2020.[7] Informal giving and volunteering also remained strong during this period.

Taken together, the data also suggests that the philanthropic sector is facing a greater demand for services and increased giving from existing and new donors. Nonprofit organizations are adapting new modes of service delivery, staffing shortages, and virtual modes of engagement.

According to additional survey evidence from 2021, the share of households who gave directly to charitable organizations, individuals, or businesses for COVID–19 relief increased by 9.3 percentage points from May 2020 to May 2021.[8]

In response to the pandemic, overall charitable giving to organizations focused on basic needs and health saw strong growth from May 2020 to May 2021. While giving to organizations focused on religion and all other purposes also increased during this time, U.S. households are giving less to these organizations than before the pandemic began.

Donations to racial and social justice causes increased in 2020. This increase included donations to Historically Black Colleges and Universities, as well as grassroots organizations, with 15.7 percent of Americans contributing to these causes in 2020.[9]

CROSS-BORDER GIVING

Philanthropy plays a vital and increasingly visible role in the global economy. Charitable contributions can be targeted to meet real-time challenges, provide risk capital for innovation, and support recovery in communities.

The outpouring of cross-border generosity in response to the devastation from the COVID–19 pandemic has been tremendous.[10] Not only have private donors increased their giving, but they used new tools and vehicles for giving, including impact investments, cryptocurrency, collective giving, and pooled funds.

Despite this progress, addressing the urgent humanitarian issues in many regions, including the refugee crisis in Ukraine, requires an acceleration of efforts to harness private sector resources from individual donors, foundations, and corporations.

[6] Indiana University Lilly Family School of Philanthropy. (2021). *Charitable Crowdfunding: Who Gives, to What, and Why?.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/25515/crowdfunding210331-1.pdf.*

[7] Indiana University Lilly Family School of Philanthropy. (2021). *Understanding Philanthropy in Times of Crisis: The Role of Philanthropy in COVID–19.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/26934/philanthropy-crisis-nov21.pdf.*

[8] Indiana University Lilly Family School of Philanthropy. (2021). *COVID–19, Generosity, and Gender: How Giving Changed During the First Year of a Global Pandemic.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/27002/covid19-nov21-report.pdf.*

[9] Indiana University Lilly Family School of Philanthropy. (2021). *Everyday Donors of Color: Diverse Philanthropy During Times of Change.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/26496/donors-color-report.pdf.*

[10] In addition to intergovernmental funds, we have seen an outpouring of generosity by Africans in response to the crisis. For details by country, *see https://globalindices.iupui.edu/tracker/country-reports/index.html.*

The most recent *Global Philanthropy Environment Index* (GPEI), released in March 2022, reveals significant obstacles to expanding philanthropic flows.[11] The *Index,* which measures philanthropic environments worldwide using data collected by country-based experts, examines the incentives and barriers that could affect individuals' and organizations' charitable efforts.

Findings from the *2022 GPEI* suggest that the global philanthropic environment was slightly more favorable in 2018–2020 than in 2014–2017. Three-fifths of the 91 countries and economies studied reported a favorable environment for philanthropy. Yet, among the 79 countries and economies studied in both 2018 and 2022 *GPEI,* this improvement was inconsistent, with about 30 economies reporting a shrinking space for philanthropy due to their political environments. When examining the enabling environment for cross-border philanthropic flows, over 30 percent of the 91 countries and economies studied in the 2022 *GPEI* reported a restrictive space for cross-border philanthropic flows. Among the 79 countries and economies included in both 2018 and 2022 *GPEI,* more than one-third reported a shrinking space for cross-border philanthropy. Some countries have imposed high costs and burdensome administrative requirements on philanthropic inflows and outflows with implications for donors and nonprofits working across borders.

FINAL OBSERVATIONS

The generous response by U.S. donors during the global pandemic, racial and social justice movement, and humanitarian crisis provides essential context for our ongoing understanding of the rapidly changing philanthropic landscape.

While total charitable giving has been increasing during the pandemic, we have to be concerned about post-pandemic giving patterns by Americans of all income backgrounds.

Despite the economic shocks and social upheaval induced by the COVID–19 pandemic, recent data show that *affluent households* remained very generous in their support of charitable organizations, with 88 percent giving to charity in 2020—consistent with the 90 percent rate we saw in 2017.[12] And, the average amount given increased substantially, by 48 percent, from just over $29,000 in 2017 to just over $43,000 in 2020.

In contrast, however, recent data from the *Philanthropy Panel Study* (PPS) show the fraction of low- and middle-American households that contribute to charity decreased between 2000 to 2018.[13]

While two-thirds of Americans gave to charitable causes in 2000, only 49.6 percent of Americans gave in 2018, nearly a seventeen-percentage point decline.[13]

The Philanthropy Panel Study (PPS) is the largest and most comprehensive study of American philanthropy. It tracks the share of American households who donated to charity for a nationally representative sample in a given year. For middle and low-income Americans, the declines in the overall giving rate occurred among nearly all socio-demographic groups.

Most of the decrease in giving participation occurred during the Great Recession.[14] The Great Recession of 2008 (December 2007 to June 2009) substantially affected whether people donated to charity and how much they contributed, but the trends did not slow or reverse once the economy had recovered from the Great Recession.

In the PPS data, one-third of the decrease in charitable giving participation from 2000-2016 can be directly attributed to shifts in income, wealth, and homeownership.[13] This suggests that factors such as decreases in interpersonal trust, empathy, among other factors, may also play a role.

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[11] Indiana University Lilly Family School of Philanthropy. (2022). *The 2022 Global Philanthropy Environment Index.* Retrieved from *https://globalindices.iupui.edu.*

[12] Indiana University Lilly Family School of Philanthropy. (2021). *2021 Bank of America Study of Philanthropy: Charitable Giving by Affluent Households.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/26654/bank-america-sept21.pdf.*

[13] Indiana University Lilly Family School of Philanthropy. (2021). *The Giving Environment: Understanding Pre-Pandemic Trends in Charitable Giving.* Retrieved from *https://scholarworks.iupui.edu/bitstream/handle/1805/26290/giving-environment210727.pdf.*

[14] Osili, U., Clark, C.J., and Han, X. (2019). "Heterogeneity and giving: Evidence from U.S. households before and after the Great Recession of 2008." *American Behavioral Scientist,* 63(14), 1841–1862.

As we look ahead, we have an opportunity to address issues of equity and efficiency among donors and nonprofits since giving is becoming increasingly concentrated among high-income households.

A growing body of work has examined the effects of extending the charitable deduction to non-itemizers. Results indicate that a non-itemizer charitable deduction could increase charitable donations and induce an expansion in the number of donor households.[15]

There are many issues to consider when examining the impact of tax policies. Nonprofit leaders and advocates, as well as policymakers will need to consider the effect of each policy on charitable giving dollars, the number of households that donate, and Treasury revenue, but they should also consider issues of donor equity and efficiency.

To meet complex challenges triggered by COVID–19, the racial and social justice movement, and a global humanitarian crisis, expanding tax incentives for lower- and middle-income Americans can help bolster the role of the philanthropic sector.

Making timely decisions about policies that support and enhance the long tradition of American generosity can help strengthen the role of the philanthropy now and in the future.

Thank you, again, for the opportunity to testify, and I am happy to answer any questions you may have.

QUESTIONS SUBMITTED FOR THE RECORD TO UNA OSILI, PH.D.

QUESTION SUBMITTED BY HON. RON WYDEN

Question. We have all been watching the crisis unfold as a result of the Russian invasion of Ukraine, and we are just beginning to see the effects of the humanitarian toll that will certainly follow.

Many Americans may want to help by giving to international aid organizations. One area of focus in your research is international philanthropy.

What guidance do you have for Congress and taxpayers about best practices in making donations to international aid organizations?

Answer. During armed conflicts and the subsequent humanitarian crises, the role of philanthropy and civil society increases both locally and internationally. As of May 26, 2022, Candid has tracked 816 grants valued at USD 1.1 billion and 163 pledges worth USD 683.4 million provided in response to the crisis in Ukraine (Candid, 2022).[1]

American taxpayers—who have a desire to donate—have several opportunities to give, including:

- Make donations and grants to registered non-U.S. nonprofit organizations working in Ukraine and affected areas internationally if such organizations meet the requirements of the Internal Revenue Service, including equivalency determination or expenditure responsibility;
- Work with intermediaries and pooled funds headquartered in the United States; such as the Ukraine Humanitarian Fund organized by GoFundMe in collaboration with the U.S. Department of State's Office of Global Partnerships; and the Ukraine Crisis Relief Fund organized by GlobalGiving; or
- Fund U.S.-based philanthropic organizations working in the region, such as the Red Cross or donate to international organizations, such as UNHCR, UNICEF, or WHO (Council on Foundations, 2022).[2]

Overall, donors should make donations to international aid organizations by giving to nonprofit organizations or causes that are closest to their heart. Many resources are available to find trustworthy nonprofit organizations:

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[15] Rooney, P., Zarins, S., Bergdoll, J., and Osili, U. (2020) "The Impact of Five Different Tax Policy Changes on Household Giving in the United States." *Nonprofit Policy Forum,* 11(4), 1–18.
[1] *https://topics.candid.org/issue-pages/ukraine/.*
[2] *https://cof.org/content/guidance-making-grants-support-ukraine.*

- Charity Navigator[3] has published a list of highly rated nonprofit organizations involved in humanitarian relief.
- GlobalGiving,[4] along with other crowdfunding platforms, have hosted numerous projects focusing on Ukraine; and
- List of response funds and organizations responding directly to the crisis are available at the Council on Foundation's website.[5]
- Local initiatives, such as the Fund for Ukrainian Civil Society[6] (led by Ednannia, one of the largest Ukrainian NGO established the emergency fund for civil society organizations all over Ukraine), provide ways to give directly to organizations working in Ukraine.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. In your written statement, you mentioned the need to think about changes in how individuals give, highlighting new forms of giving such as crowdfunding.

Could you elaborate on how you see these new forms of giving affecting the nonprofit sector?

Answer. According to the results of *Charitable Crowdfunding: Who Gives, to What and Why*—a study conducted in 2021 by the Indiana University Lilly Family School of Philanthropy, crowdfunding and other forms of online fundraising, such as via social media and nonprofit organizations' websites, have the potential to extend opportunities for a wider audience. The reduction in barriers to giving makes it easy for donors to reach organizations and individuals they want to give to. Based on existing data, crowdfunding may tend to complement donors' giving rather than replace it.

> Unlike nonprofit organizations which build networks of supporters and leverage them on social media to raise funds, individual crowdfunding donors have yet to fully harness the power of social media to advocate for their projects. They seldom, if ever, ask friends, family, and acquaintances via social media to contribute to the causes they are supporting on crowdfunding platforms. This behavior seems different from fundraising on social media platforms where networks are paramount to successful fundraising campaigns. More research is needed to better understand the reluctance of crowdfunding donors to fully engage their friends and acquaintances in this type of fundraising. (Indiana University Lilly Family School of Philanthropy, 2021)[7]
>
> As individuals gravitate more to online giving and researchers continue to study this growth, creating clearer distinctions between charitable fundraising via crowdfunding and via social media will allow for better understanding not only of how the giving vehicles differ but also how donors using each vehicle are similar or different. (Indiana University Lilly Family School of Philanthropy, 2021)[8]

Question. How does tax policy play into these changes, if at all?

Answer. The issue around tax-deductibility and crowdfunding raises interesting questions about donor motivations for giving on these platforms. A contribution to a charitable organization with 501(c)(3) status can be deducted on taxes according to the tax laws. As this study finds, many crowdfunding donors give to individuals or to community campaigns, which may not be tax-deductible. Crowdfunding donors may be less motivated by tax-deductibility than typical charitable donors. Moreover, income and wealth are not closely linked to giving via crowdfunding platforms compared to typical charitable donors.

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[3] *https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=9366.*

[4] *https://www.globalgiving.org/search/?size=25&nextPage=1&sortField=sortorder&selectedLocations=00ukrain&loadAllResults=true.*

[5] *https://cof.org/news/philanthropys-response-russian-invasion-ukraine.*

[6] *https://sos.ednannia.ua/?utm—medium=email&_hsmi=205839157&_hsenc=p2ANqtz-_TVa2LKo6DsXEuyjV3EMo00WBiGoOXHw8phUrpeV3EnjGoD-FnJFHsNatoCk9GpaEV40sqjbL9OGLywMardsc3trNVxw&utm_content=205839157&utm_source=hs_email.*

[7] *https://scholarworks.iupui.edu/bitstream/handle/1805/25515/crowdfunding210331-1.pdf.*

[8] *https://scholarworks.iupui.edu/bitstream/handle/1805/25515/crowdfunding210331-1.pdf.*

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. The deduction for charitable donations is meant to encourage contributions that benefit the public. With donor-advised funds, the donor gets the deduction now, but the charitable benefit may not happen for years.

Are there any reforms to donor-advised funds that should be considered?

Answer. Overall, donor-advised funds (DAF) are considered among the fastest-growing charitable giving vehicles, but there has been little quantitative research on where DAF grant dollars go. The *Giving USA Special Report, Donor-Advised Funds: New Insights,* a publication of Giving USA Foundation, researched and written by the Indiana University Lilly Family School of Philanthropy shows that DAF grant dollars doubled from 2014 to 2018, while grant patterns remained stable. Education, religious, and public-society benefit organizations—which include United Ways and many organizations focusing on community development and civil rights—attracted the most DAF grant dollars between 2014 and 2018. The report also includes preliminary findings from a subset of DAF-sponsoring organizations with data from 2019 and 2020. According to the data, DAF grant dollar amounts grew by 39 percent and the number of distinct grantees grew 11 percent between 2019 and 2020. DAF giving to human services grew 138 percent, while giving to public-society benefit organizations nearly doubled. DAF grants to Historically Black Colleges and Universities (HBCUs) and other racial justice organizations more than quadrupled. (Giving USA Foundation and Indiana University Lilly Family School of Philanthropy, 2021)[9]

With the rise of commercial DAFs since the 1990s, DAFs have generally recorded average higher payout rates than private foundations, which operate under a similar model of tax deduction immediately, charitable granting later. While some research has found that there are a minority of DAF accounts that sit idle, it has not been determined if these accounts are of significant size. Additionally, many of the larger organizations in the DAF sector, such as Fidelity Charitable, and community foundations have internal policies designed to combat this, removing a donor's control from their funds if they sit idle for a number of years. Based on data from 13,000 DAF accounts collected from community foundations and religiously affiliated DAF sponsor organizations across the U.S., about half (52 percent) of DAF accounts have 4-year average payout rates between 5 percent and 49 percent (Vance-McMullen and Heist, 2022).[10] Around 71 percent of these DAF accounts made a grant in a typical year. A majority (86 percent) made at least one grant over the 4-year period.

Currently, the legal framework that supports DAFs does not require a specific payout rate. Based on existing data, DAFs have reported higher average payout rates compared to private foundations. However, as DAFs grow in size and visibility, there may be a need for additional data and research on how best to strengthen the overall donor-advised funds landscape in order to benefit the charitable sector.

Question. We have heard that reforms which require tracking when donations come in and when they are distributed from donor-advised funds can be an administrative burden.

Do you have ideas for ameliorating any administrative burden that may exist?

Answer. It is worth noting that DAFs vary in their size and capacity across various types (community foundations, single-issue charity, and commercial DAF sponsors). Technology may have a role to play in reducing the administrative burden. However, detailed tracking and reporting on grants and distributions may require additional staff and organizational capacity for small organizations. In contrast, an investment in the administration and tracking of either significant transfers or of transfers from larger organizations may be beneficial for the charitable sector while still allowing for adequate overview.

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[9] *https://store.givingusa.org/pages/giving-usa-special-report-donor-advised-funds-new-insights.*

[10] *https://static1.squarespace.com/static/6011def87418a462fcb03978/t/6242d5b62b2ff70cccde478c/1648547257883/DAFRC+Patterns+and+Trends+Report.pdf.*

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. As part of the CARES Act, Congress sought to boost charitable giving during the pandemic by relaxing limits on the individual and corporate itemizer deduction. These provisions temporarily allowed individuals to deduct up to 100 percent of AGI and corporations to deduct up to 25 percent of taxable income.

Do you have any data or information you could share on the effectiveness of these provisions? What should Congress consider in deciding whether to extend either provision?

Answer. In response to historic levels of unemployment and an economic downturn during the early months of the COVID–19 pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. While significant portions of the act targeted disaster relief, unemployment assistance, and taxpayer support, the law also included provisions that affect the nonprofit sector. The CARES Act was initially in place for tax year 2020, but it was extended in December 2020 under the Consolidated Appropriations Act (2021).

Key components of the CARES Act that affect charitable giving include (Internal Revenue Service, 2021):[11]

1. An above-the-line (non-itemizer) charitable deduction up to USD 300 for all taxpayers in 2020 and USD 300 for single filers and USD 600 for married couples filing jointly in 2021.
2. Suspension of the adjusted gross income limit on cash contributions (with some limitations).
3. An increased limit on corporate deductions for cash contributions (25 percent, up from 10 percent); and
4. Additional incentives for businesses that donate food inventory.

The above-the-line charitable deduction has the potential to incentivize additional charitable giving while providing tax relief to more households. However, researchers have raised concerns that small incentive—while reducing non-itemizers' tax burden—will not significantly increase overall giving (Steuerle et al, 2021).[12] The Congressional Research Service estimates that the USD 300/USD 600 non-itemizer deduction will cost the Treasury USD 2.865 billion (Sherlock et al., 2021).[13] The Tax Policy Center estimates that the deduction could cost the Treasury USD 1.5 billion (2020–2030) while providing taxpayers as little as USD 100 million in relief and charities with a nonsignificant benefit (Steuerle et al, 2021).[14] These estimates differ based on whether they were calculated before or after the passage of the extension and which tax years are included. Gravelle (2021)[15] summarizes these analyses.

Regardless of the tax treatment of charitable giving, Americans have responded to the increased need resulting from the COVID–19 pandemic. *Giving USA: The Annual Report on Philanthropy* estimated that in 2020, USD 471 billion were donated to U.S. charities with USD 324 billion of that total (69 percent) donated by individuals (Giving USA Foundation, 2021).[16] This total includes an adjustment for giving to COVID–19 relief and racial justice giving in 2020 of USD 4.1 billion.

Candid and the Center for Disaster Philanthropy published a report, Philanthropy and COVID–19: Measuring One Year of Giving, which reported that giving (including pledges) totaled over USD 15 billion during the first year of the pandemic (Candid and Center for Disaster Philanthropy, 2021).[17] and as of May 26, 2022, Candid's summary of grants and pledges made to support COVID–19 relief is over USD 28 billion (Candid, 2022).[18]

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[11] *https://www.irs.gov/newsroom/expanded-tax-benefits-help-individuals-and-businesses-give-to-charity-during-2021-deductions-up-to-600-available-for-cash-donations-by-non-itemizers.*

[12] *https://www.urban.org/sites/default/files/publication/103824/designing-an-effective-and-more-universal-charitable-deduction.pdf.*

[13] *https://crsreports.congress.gov/product/pdf/R/R46649.*

[14] *https://www.urban.org/sites/default/files/publication/103824/designing-an-effective-and-more-universal-charitable-deduction.pdf.*

[15] *https://crsreports.congress.gov/product/pdf/IN/IN11420#:%7E:text=The%20CARES%20Act%20and%20the,who%20take%20the%20standard%20deduction.*

[16] *https://philanthropy.iupui.edu/news-events/news-item/giving-usa-2021:-in-a-year-of-unprecedented-events-and-challenges,-charitable-giving-reached-a-record-$471.44-billion-in-2020.html?id=361.*

[17] *https://www.issuelab.org/resources/38039/38039.pdf.*

[18] *https://candid.org/explore-issues/coronavirus.*

Question. In December 22, 2020, I released the results of an investigation conducted by my staff into the relationship between World Vision, a 501(c)(3) non-profit organization, and the Islamic Relief Agency, which had been sanctioned by the U.S. Government. My investigation concluded in part, "A more robust and fundamentally sound system of screening and vetting is needed to restore the public's trust that contributions to World Vision are not funding illicit organizations." The full results of that investigation are available on my webpage here: *https://www.grassley.senate.gov/news/news-releases/grassley-releases-results-investigation-world-vision-s-interactions-isra.*

Do you believe that charities have implemented adequate safeguards to ensure that grants from the U.S. Government and donations from Americans are not even inadvertently funneled to the benefit of individuals or groups that have been sanctioned by the U.S. Government? Are there additional steps charities can take to ensure they are in compliance with applicable rules and regulations, or is there any action Congress should take to promote that compliance?

Answer. There are many regulations and safeguards that have been implemented to combat terrorist financing in the nonprofit sector. The Financial Action Task Force (FATF) (2015) [19] as well as the U.S. Department of the Treasury (2010) [20] provides guidelines and best practices to ensure that nonprofit organizations are in compliance with counterterrorism and anti-money laundering regulations. Some of these guidelines and best practices are mentioned below:

- Congress should raise awareness about terrorist financing by regularly consulting with charities and publishing guidance for the nonprofit sector. Please see an example developed by the Australian Government: Safeguarding Your Organization against Terrorism Financing.[21]
- Congress should also promote and advocate for the use of an effective, risk-based approach by the nonprofit sector. Please see an example developed by the U.S. Department of the Treasury's Office of Foreign Assets Control: Risk Matrix for the Charitable Sector.[22]
- To implement risk-based approaches, charities need to better understand the various risk that may emerge during cross-border donations. Thus, Congress should promote and support education and training that are offered to charities in these topics, as well as in good governance and financial responsibility.
- Simultaneously, Congress should safeguard that the legislation does not create burdensome reporting requirements and does not take overly broad interpretation of the FATF recommendations by focusing on those charities or subgroups of charities that are at greatest risk after due-diligently reviewing the nonprofit sector in the U.S.
- Finally, charities themselves can also decrease this global threat and ensure that their grants are well used by self-regulating themselves to enhance transparency and accountability in their operations and safeguard their own organizations against terrorist financing. Establishing an independent monitoring organization could help charities make adequate risk management and responsible decisions, could award accreditation to member charities who meet the requirements and could also monitor the sector and raise awareness on recent threats.

Overall, as the nonprofit sector is diverse, it is important to focus on mitigating risks through:

- Ongoing outreach to the sector;
- Proportionate, risk-based supervision or monitoring;
- Effective investigation and information gathering; and
- Effective mechanisms for international cooperation.(FATF, 2015) [23]

Question. In an article published in 2020 in the *Maryland Law Review,* Professor Johnny Rex Buckles concludes in part, "Federal tax law permits foreign actors to influence U.S. politics and policies through their interactions with American char-

[19] *https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf.*
[20] *https://home.treasury.gov/.*
[21] *https://www.homeaffairs.gov.au/criminal-justice/files/safeguarding-your-organisation-against-terrorism-financing.pdf.*
[22] *https://home.treasury.gov/.*
[23] *https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf.*

ities."[24] He goes on to note in his conclusion, "Even the existing restrictions on lobbying, and the prohibition against political campaign intervention, safeguard against only the most obvious exploitation of charities by politically motivated foreign actions."[25]

In a theoretical case study, the article presents an example where a Russian oil baron donates to a U.S. charity that educates the American public on the dangers of fossil fuels with the intent of promoting increased regulation of U.S. fossil fuel interests that would serve to confer a comparative advantage on their Russian competitor.

This example may in fact not be very theoretical. In an opinion piece published in *The Hill* in March of 2022, Institute for Policy Innovation resident scholar Merrill Matthews wrote, "U.S. policymakers are finally realizing that Russia may have been covertly funding U.S. environmental organizations to shape public opinion and policies—especially energy and anti-fossil fuel policies—to Russia's liking and benefit. Such Russian skullduggery has long been an open secret in Europe."[26]

Do you have concerns that foreign actions are able to exploit U.S. tax-exempt organizations to promote their own priorities and extend influence over U.S. policy?

Answer. Foreign actions including cross-border charitable donations may exploit U.S. tax-exempt organizations either for using the organization for money laundering or for promoting certain policies, even though there are several regulations that aim to decrease the possibility of any foreign influence over U.S. policy through nonprofit organizations (Buckles, 2020).[27]

Countries where strict regulations on foreign-funded nonprofit organizations have been implemented, such as Russia, Israel and Hungary, show that control on foreign donations might be harmful for the overall nonprofit sector. In these three countries, regulations targeted primarily human rights and watchdog organizations, however, the laws often undermined the reputation of the entire sector too. Additionally, such regulations often violated national and international laws and agreements. As an example, the Hungarian Act LXXVI of 2017 on the Transparency of Organizations Supported from Abroad violated the freedom of association, the right to privacy and personal data protection and freedom of expression of the organization among others (Hungarian Helsinki Committee and Tarsasag a Szabadsagjogokert, 2017).[28]

It is crucial to find a balance between national security, enhancing philanthropy, and promoting accountability simultaneously. Thus, if Congress decides to further regulate foreign-funded U.S. tax-exempt organizations:

- Congress could conduct public consultations (within the nonprofit sector and across the U.S. society) to develop accurate safeguards without creating burdensome requirements for tax-exempt organizations; and
- Congress could promote accountability and due diligence and support the implementation of professional guidelines or a universal "bill of rights" for foreign-funded tax-exempt organizations to avoid any harmful actions against U.S. policies and to strengthen these organizations' own legitimacy and credibility.
- Congress could tailor current and future regulations to distinguish different types of foreign support and their various beneficiaries. Foreign action can often be crucially important, just let's think of cross-border giving to natural disasters or foreign-funded organizations that support global causes internationally.

Question. Are there reliable measures of how much foreign money is poured into U.S. non-profit entities and the source of that funding?

Answer. While there are other sources available to the government for tracking such information, within the publicly available Form 990 data, data on foreign funding to U.S. nonprofit organizations (cross-border philanthropic inflow) is limited. While the Form 990 requires a decent amount of information about grants or pay-

[24] Johnny Rex Buckles, "Curbing (or Not) Foreign Influence on U.S. Politics and Policies Through the Federal Taxation of Charities," *Maryland Law Review,* Vol. 79:590, (2020).
[25] *Id.*
[26] Matthews, Merrill, "Russia used 'soft power' to influence EU policies and anti-fossil fuel efforts," *The Hill,* March 22, 2022, available at *https://thehill.com/opinion/energy-environment/599113-russia-used-soft-power-to-influence-eu-policies-and-anti-fossil.*
[27] *https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3858&context=mlr.*
[28] *https://helsinki.hu/wp-content/uploads/What-is-the-Problem-with-the-Law-on-Foreign-Funded-NGOs.pdf.*

ments to foreign entities, there is not much in terms of donations to nonprofit organizations.

Additionally, organizations have to file Schedule B of the Form 990, but it is not publicly available data. In Schedule B, U.S. nonprofit organizations have to list every contributor who gave more than USD 5,000 to the organization. It would be a good starting point to audit foreign-funded—including Russian-funded—U.S. nonprofit organizations in the future.

Question. Do you have an estimate of funding for U.S. non-profits that originated from sources aligned with Russia, or Russian policy priorities?

Answer. Unfortunately, there is no publicly available information on this matter. Please see above.

QUESTION SUBMITTED BY HON. ROB PORTMAN

Question. In recent years, charitable giving through cryptocurrencies have skyrocketed, and we should only expect this to continue to grow as cryptocurrency becomes more and more prevalent. However, right now it is difficult to make a tax-deductible charitable donation with cryptocurrency. If you are making a donation worth over USD 5,000 in cryptocurrency, you have to get a qualified appraisal whereas with publicly traded stock an appraisal is not needed. Even for non-publicly traded stock gifts below USD 10,000 do not need a qualified appraisal. Given that cryptocurrency is traded on a public market, it seems that the value is readily ascertainable.

Wouldn't it be helpful to allow taxpayers to make charitable crypto donations without requiring qualified appraisals? Do you consider the appraisal as necessary in a marketplace in which the value can easily be determined in online crypto exchanges?

Answer. With the growth of the cryptocurrency market, we have seen an expansion in intermediary organizations that work with donors and registered nonprofit organizations to reduce the barriers to giving via cryptocurrency. One of these intermediaries is the Giving Block [29] that provides an ecosystem for nonprofit organizations to fundraise via cryptocurrencies. Intermediary organizations have expanded access to crypto currency donations for nonprofit organizations while providing channels for donors to give cryptocurrencies to the organizations and causes they support.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. I would like to follow up on our discussion regarding the barriers to establishing more community foundations around the country. As we discussed during the hearing, Indiana has had tremendous success in establishing community foundations across the State, in large part due to the generosity and long-term vision of the Lilly Endowment. However, not all States are fortunate enough to have Indiana's extensive community foundation structure and support.

Based on your scholarship and experience, are you aware of any Federal barriers that prevent or hinder the creation of community foundations across the country? If so, what are your recommendations for addressing those barriers?

Answer. Community foundations have expanded in the U.S. and many parts of the world. Within the U.S., the National Standards for U.S. Community Foundations Accreditation Program [30]—which "certifies U.S. community foundations that meet and exceed Federal and State law requirements in practice and by policy—has provided guidance over time.

While research has not focused on specific barriers that hinder the growth of community foundation, there is a recognition that funders can provide financial resources to assist with the creation of new community foundations and strengthening existing ones. Funders have also provided initial funding to encourage the development of community foundations for start-up and technical assistance, challenge grants to build endowment, and grants for specific programs and initiatives. Non-

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[29] *https://thegivingblock.com/.*

[30] *https://www.cfstandards.org/.*

monetary resources can raise a community foundation's profile and help build trust with potential donors, grantees and the community at large.

State and local governments can also play a role in strengthening community foundations through partnerships and collaboration. In some States, gifts to community foundations are eligible for tax credits. For example, in Kentucky, charitable donations to endowed charitable funds at Community Foundation are eligible for up to 20 percent in State tax credits. Only gifts to endowment funds at accredited community foundations qualify for this tax credit. Unlike tax deductions, tax credits are subtracted from a donor's tax bill, dollar for dollar. A gift of USD 5,000 has the potential to reduce the taxpayer burden in State taxes by USD 1,000.

Question. During the hearing, I mentioned a collaboration between the Central Indiana Community Foundation and Indianapolis-based technology company, Selflessly, who partnered together to reduce obstacles to giving and help individuals and businesses better execute on their giving goals. I raised this example to demonstrate how Indiana's charitable giving sector is embracing innovation and technology.

Another example is the launch of the Labs for Industry Futures and Transformation (LIFT) Network in the South Bend-Elkhart region of my State. This partnership leverages generous grant funding and local community foundations, networks, and organizations, including Notre Dame's iNDustry Labs, to link expertise, technologies, workforce development programs, and innovation-based facilities throughout the area.

What are some other ways Indiana leads the country in innovation with respect to expanding or utilizing charitable giving?

Answer. One area where Indiana has led the country in innovation is community foundations' growth. There are over 94 community foundations (legal entities, affiliates, and area funds), with at least one community foundation based in every county. Indiana's community foundations are tax-exempt charitable organizations. The Lilly Endowment, through its Giving Indiana Funds for Tomorrow [31] (GIFT), has awarded USD 126.5 million to community foundations across Indiana. In the seventh phase of the initiative (GIFT VII), the Endowment looked to build upon the momentum and successes of GIFT's earlier stages and enhance Indiana's community foundations as trusted and valued institutions.

Question. As violence has raged on in Ukraine, hopefully with an end in sight, it has been heartwarming to hear stories about Hoosiers taking action. For example, an organization out of Noblesville, IN, called Mission to Ukraine, usually assists women in crisis and children with severe disabilities. However, during this conflict, Mission to Ukraine has pivoted to collecting and handing out food, water, medicine, and clothes to the most vulnerable on the ground in Ukraine. Many Americans who listened to this hearing may be wondering what they can do to help.

What would be your recommendation to Americans who have a desire to assist humanitarian efforts in Ukraine?

Answer. There are various ways to assist the humanitarian effort in Ukraine.

- Make donations and grants to registered non-U.S. nonprofit organizations working in Ukraine and affected areas internationally if such organizations meet the requirements of the Internal Revenue Service, including equivalency determination or expenditure responsibility;
- Work with intermediaries and pooled funds headquartered in the United States; such as the Ukraine Humanitarian Fund organized by GoFundMe in collaboration with the U.S. Department of State's Office of Global Partnerships; and the Ukraine Crisis Relief Fund organized by GlobalGiving; or
- Fund U.S.-based philanthropic organizations working in the region, such as the Red Cross or donate to international organizations, such as UNHCR, UNICEF, or WHO (Council on Foundations, 2022).[32]

Question. What trends or innovations have you observed with respect to Americans' charitable giving to Ukraine?

[31] *https://lillyendowment.org/our-work/community-development/strengthening-indiana/giving-indiana-funds-for-tomorrow/.*

[32] *https://cof.org/content/guidance-making-grants-support-ukraine.*

Answer. According to Fidelity Charitable (2022),[33] one in four Americans supported Ukraine through giving to nonprofit organizations, giving directly to affected individuals, or supporting local businesses or purchasing a product with proceeds to benefit Ukraine. The top three causes supported by Americans were medical support (60 percent), children's issues (58 percent) and short-term humanitarian aid, such as temporary housing, meals, and personal supplies (52 percent).

There are many innovative ways how donors in the United States and across the globe have supported individuals and communities affected by the crisis such as:

- Booking Airbnbs: It became a popular way to instantly support Ukrainians and booking Airbnbs in Ukraine has grossed nearly USD 2 million as of March 5, 2022 (NPR, 2022);[34]
- Donating cryptocurrencies: Ukraine has also received a total of "close to USD 100 million" in crypto donations as of March 9, 2022 (CoinDesk, 2022)[35] and the government has spent USD 35 million of the donations on military supplies, USD 10 million on humanitarian support, and USD 6.5 million on general aid (Times, 2022);[36] and
- Buying NFTs: The Ukrainian government has launched a webpage[37] for selling an estimated 300 nonfungible tokens (NFTs) to collect donations for the support of Ukraine (Bloomberg, 2022).[38]
- Providing support through Facebook communities: Facebook and other social media groups has served as an effective channel to communicate urgent needs and connect donors and beneficiaries in a timely manner (Vinnikov, 2022).[39]

Question. The recently published 2022 Global Philanthropy Environment Index Report from the Indiana University Lilly Family School of Philanthropy,[40] which I understand you helped prepare, found that while philanthropic giving grew worldwide between 2018 and 2020, cross-border giving decreased, even as countries became richer and their residents more prosperous. I understand these findings were a surprise given that one of the hypotheses was that cross-border giving would increase as economic conditions in a country improved.

What is your theory as to why cross-border giving declined even while overall philanthropic giving grew worldwide?

Answer. I would like to clarify that while the global environment for philanthropy slightly improved between 2018 and 2022, the environment for cross-border giving experienced a decrease. The global philanthropic environment—comparing the 79 countries and economies included in both the 2018 and 2022 Global Philanthropy Environment Index—showed a modest increase between 2014–2017 and 2018–2020. However, one third of the 79 countries and economies included in both 2018 and 2022 GPEI reported a shrinking space for cross-border philanthropy. This can be attributed to the importance of political factors (and not just economic factors) in shaping philanthropy.

- Country experts reported continuous and burdensome regulatory requirements for sending or receiving cross-border donations in 2018–2020, often due to anti-money laundering and counter-terrorism disclosure requirements.

> As part of the global counter-terrorism efforts, the International Monetary Fund's Financial Action Task Force (FATF) Special Recommendation 8 on nonprofit organizations, originally published in 2012, is aimed at ensuring nonprofits are not misused by terrorist organizations for illegitimate purposes and suggests a group of measures to take action in this direction. . . . These restrictions have been reported in several countries to affect the capacity of the organizations in the philanthropic sector to receive

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[33] *https://www.fidelitycharitable.org/content/dam/fc-public/docs/insights/all-eyes-on-ukraine-how-americans-are-responding-to-the-crisis.pdf.*

[34] *https://www.npr.org/2022/03/05/1084739721/airbnb-ukraine-direct-aid.*

[35] *https://www.coindesk.com/business/2022/03/09/ukraine-has-received-close-to-100-million-in-crypto-donations/.*

[36] *https://time.com/nextadvisor/investing/cryptocurrency/donate-crypto-to-ukraine/.*

[37] *http://104.21.42.112:6080/php/urlblock.php?args=AAAAewAAABCC7Q6VHrfEInQN7Vb9dS8TAAAAECLO04cn4v9fV2XBxh8qfAAAAABLAAAAS48dy3whJ4ZeEWR1tCQ553~dScTycSanEoeHnNTgL0IXkvsXLeR1jthqvBbEMcxzp4VuO5CfaLoDLLlmmFXmMYaGKvbs3HfHxkn0kA==&url=https://metahistory.gallery%2fwarline.*

[38] *https://www.bloomberg.com/news/articles/2022-04-05/ukraine-readies-nft-sales-as-crypto-donations-top-60-million.*

[39] *https://globalindices.iupui.edu/doc/Vinnikov%20GPEI%20Presentation.pdf.*

[40] *https://scholarworks.iupui.edu/handle/1805/28202.*

> funding, send donations, and introduce barriers to the flows of cash donations (Global Philanthropy Environment Index, 2018).[41]

Since then, FATF advocated for the review the adequacy of measures implemented by countries across the globe in order to take proportionate actions to address the possible risks without targeting the nonprofit sector through excessively rigid regulations to meet the FATF guidelines. However, such guidelines are still in place in many countries, negatively affecting the ability of sending or receiving cross- border donations.

- Additionally, between 2018 and 2020 some countries suffered from heavily regulated cross-border philanthropic flows, because of practices that restricted philanthropic inflows and/or outflows with high costs and burdensome administrative requirements often to fight against "foreign agents."

In terms of the amount of cross-border giving globally, in 2018, 47 economies contributed USD 68 billion in cross-border philanthropic outflows and a combined USD 834 billion through four cross-border flows, including philanthropic outflows, official development assistance, remittances, and private capital investment (Indiana University Lilly Family School of Philanthropy, 2020).[42]

- According to the *Global Philanthropy Tracker,* the United States contributed a total of USD 212.1 billion across the four cross-border flows and the second largest flow was private philanthropy, at USD 47.6 billion (22.45 percent) in 2018. Private and voluntary organizations provided USD 35.3 billion in cross-border giving, private foundations contributed USD 6.3 billion, and corporate foundations accounted for USD 251 million. Religious organizations contributed USD 5.71 billion to cross-border philanthropy (Indiana University Lilly Family School of Philanthropy, 2020).[43]

According to the most recent *Giving USA: The Annual Report on Philanthropy,* giving to international causes has increased in the last couple of years, except for 2018 in the United States.

- In 2019, giving to international affairs was estimated to be USD 28.89 billion. Adjusted for inflation, giving to international affairs organizations declined 2.2 percent, after 2 strong years of growth (Giving USA Foundation, 2020).[44]
- In 2020, giving to international affairs is estimated to be USD 25.89 billion in 2020. Adjusted for inflation, giving to international affairs organizations increased 7.8 percent (Giving USA Foundation, 2021).[45]

Question. Are there any actions Congress should take to help reduce barriers to cross-border giving?

Answer. Policymakers may review and assess anti-money laundering/counterterrorism regulations and implement adequate measures that relate to the subset of the nonprofit sector that may be at risk of financing terrorism, while encouraging cross-border giving overall.

> A 2010 decision by the U.S. Supreme Court (*Holder v. Humanitarian Aid*) upheld the constitutionality of these policies, including the prohibition of gifts to organizations on a list of suspected terrorist groups maintained by the U.S. Department of State, even if the funds are earmarked for a group's charitable work. These rules have generally required donors to exercise greater diligence in making international gifts, or face penalties, and have been accused of reducing giving, especially to the Middle East. (Lenkowsky, 2022)[46]

Policymakers may review regulations that surrounding cross-border donations to create more transparent and less burdensome reporting requirements and to provide tax incentives for international giving by having tax treaties with other countries. Such tax treaties are in force with Canada, Mexico, and Israel, where certain foreign philanthropic organizations are granted 501(c)(3) exempt status.

[41] *https://scholarworks.iupui.edu/handle/1805/15958.*
[42] *https://globalindices.iupui.edu/tracker/index.html.*
[43] *https://globalindices.iupui.edu/tracker/index.html.*
[44] *https://givingusa.org/giving-usa-2020-charitable-giving-showed-solid-growth-climbing-to-449-64-billion-in-2019-one-of-the-highest-years-for-giving-on-record/.*
[45] *https://philanthropynetwork.org/news/giving-usa-2021-year-unprecedented-events-and-challenges-charitable-giving-reached-record-47144.*
[46] *https://scholarworks.iupui.edu/bitstream/handle/1805/28202/2022GPEIUnitedStates.pdf.*

> Americans can give cross-border donations without prior government approval, but they can obtain a charitable tax deduction only for contributions to POs "created and operated" in the United States. However, they may be able to exclude such gifts from taxable income if they can show that the cross-border organization would qualify as a charity in the United States. (Lenkowsky, 2022)[47]

PREPARED STATEMENT OF C. EUGENE STEUERLE, PH.D., CO-FOUNDER, URBAN-BROOKINGS TAX POLICY CENTER; CENTER ON NONPROFITS AND PHILANTHROPY, URBAN INSTITUTE; AND ACT FOR ALEXANDRIA, A COMMUNITY FOUNDATION

Mr. Chairman and members of the committee, it is an honor again to testify before you, this time on charitable contributions and taxes. The views I express in this testimony are my own and should not be attributed to the Urban-Brookings Tax Policy Center, its trustees, or its funders.

According to estimates by the Urban-Brookings Tax Policy Center, Congress's temporary changes to the tax law in 2017 reduced the Federal Government's total individual income tax subsidies for charitable giving by about 30 percent—from an average subsidy of about 21 cents to 15 cents per dollar contributed (Steuerle et al. 2021).

Charitable giving, in turn, almost assuredly decreased giving *from what it otherwise might have been.* Using a commonly used estimate on behavioral response, my colleagues at the Tax Policy Center calculated that giving declined about 4 percent to 7 percent (Rosenberg and Stallworth 2017). At the same time, giving overall increased somewhat near the end of the last decade (Indiana School of Philanthropy, various years; Faulk, et al. (2021) due to other factors, such as income growth, higher employment, and in response to the COVID crisis.

Some research also indicates that the share of people giving to charity has declined (Jones 2020), although this trend may also be attributable to the higher concentration of cash income. That, too, may be among the concerns that motivates this hearing.

While there are legitimate debates about some of these numbers and the extent to which households have changed their behavior, the decline in subsidies provided is a straightforward calculation.

Let me be clear. That decline in charitable giving subsidies was an indirect byproduct of several features of that 2017 law—in particular, a substantial increase in the standard deduction. That increase benefited many low- and middle-income taxpayers—not just those who switched to a standard deduction now worth more than all their otherwise itemizable deductions, but those who were already using the standard deduction and never took a charitable deduction to begin with.

Nonetheless, the current charitable tax incentive now benefits only about one-tenth of all households, mainly those with higher incomes. I doubt seriously that the public will long support a deduction so narrowly applied (Steuerle 2018). As Roger Colinvaux (2017) suggests, a nonparticipatory deduction undermines many of the altruistic, pluralistic, and other rationales for a deduction. Whether to confront those concerns or simply address the upcoming expiration of the 2017 provisions, these pressures provide a real opportunity to consider ways to create an even more effective charitable incentive, and I congratulate the committee on conducting these hearings on that matter.

POSSIBLE WAYS TO COMPARE OPTIONS AT DIFFERENT COST LEVELS

As a policy researcher, I find it helpful to define a rubric to compare options. Here, I suggest an informative way to compare reform options, whether proposed by me or anyone else.

First, for different levels of total subsidy, compare different types of options on a *revenue-neutral* or *cost-neutral* basis. For instance, you might make these comparisons at the current level of total subsidy and the cost equivalent of restoring the 30-percent cutback in total subsidies. The Joint Committee on Taxation and the Congressional Budget Office have within their substantial capacities the ability to provide such comparisons. Applying this technique, analogous to cost effectiveness

[47] *https://scholarworks.iupui.edu/bitstream/handle/1805/28202/2022GPEIUnitedStates.pdf.*

analysis, both focuses on effectiveness and compels advocates to discuss with you whether the money involved in the charity tax changes they propose could be spent better. I think you will find from most economic analyses, not just my own, that the conclusions on which designs best promote charitable giving will not vary greatly, whatever the level of total subsidy or assumption on behavioral response.

Second, consider maximizing gains for charitable beneficiaries for each dollar of subsidy as the prize on which Congress focuses its eyes. That is, estimate the impact on charitable beneficiaries side by side with the *net* impact on taxpayers and on government revenues. In a balanced income statement, the total change in income of charitable beneficiaries equals the revenue loss to government minus any increase in taxpayers' net income (their tax reduction less the additional giving they make). Traditional distributional tables mislead when revenue losses appear to represent gains for taxpayers; in the case of a charitable tax incentive, some of, all, or more than all those gains are distributed to charitable beneficiaries.

THE POWER OF SIGNALS BOTH LARGE AND SMALL

Though much of what I present today relates to what we think we know about incentives, there is a higher level where we have some broad theoretical understanding, though limited empirical evidence, of likely consequences. I refer to the broader signal that Congress sends to the public about the role of charitable giving in our society.

In 1835, Alexis de Tocqueville singled out United States citizens for their extraordinary level of civic activity and association. Though communal efforts remain high, and the United States today still stands out among developed nations for the share of income devoted to charitable giving, neither should be taken for granted. Indeed, some research indicates that participation in both associations, including religious gatherings, and charitable giving has been declining. Meanwhile, many online groups and media have become increasingly partisan, political, and in-group focused. Also, as our Nation has become several time richer per capita over recent decades, we have not been able to increase the share of income given to charity.

As many current events remind us, we cannot blandly assume that the blessings with which we have been endowed will pass automatically to our children. The legacy we leave should be greater than our inheritance. And though only a small piece of a much bigger picture, a bipartisan effort to improve how tax law serves charitable beneficiaries can have ripple effects beyond the charitable sector, including setting an example for how bipartisan and effective legislation can be achieved.

On a less lofty level, my testimony will attempt to demonstrate how the signals and nudges that Congress sends should be carefully considered on several fronts:

Value Promotion. In addition to its direct incentive effect, a deduction for only a few taxpayers weakly promotes and markets the value our society places on charitable giving.

Ceilings. Caps and ceilings on the amount of giving eligible for a deduction or credit don't simply limit incentives to give more; as signals, they can provide further disincentives, especially when people stop giving at what they perceive as the maximum that Congress thinks is worth encouraging.

Floors. Floors can encourage giving. They allow incentives to be concentrated where they are most likely to change behavior—that is, for giving beyond what one would do in absence of a tax subsidy. A floor set at some measure of average or median giving as a share of income also sends a signal to people that they might want to give above that level to attain their "fair share."

Administrability. Incentives that can't be monitored by IRS at some reasonable level invite corruption within the charitable sector, create inequity among taxpayers, and discourage giving.

Saliency and Nudges. When and how signals are given, such as timing rewards close to the time that people pay taxes think of the connection, can increase charitable giving.

Taking account of these various signals, I focus the remainder of my discussion on what we know more directly about the effectiveness of different types of incentives.

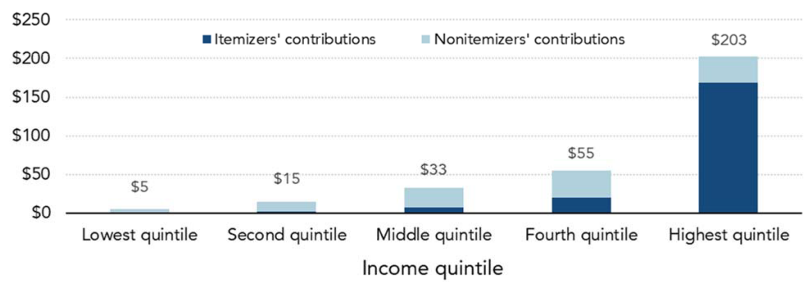
THE DISTRIBUTION OF CHARITABLE GIVING SUBSIDIES

Reducing the marginal incentives for people with higher incomes might unintentionally decrease charitable giving, just as increasing the standard deduction may have done for people with low and middle incomes. Today, higher-income people contribute a very high percentage of total national giving (Figure 1).

FIGURE 1

Charitable Contributions, 2019

Billions of dollars



Source: Tax Policy Center Microsimulation Model (version 0721-2).
Note: Income quintiles are based on expanded cash income. For a description of the income measure see "Income Measure Used in Distributional Analyses by the Tax Policy Center," accessed March 9, 2022, http://taxpolicycenter.org/taxmodel/income.cfm.

An incentive that significantly caps subsidies for richer or more generous donors can easily reverberate to significantly reduce the money available for charitable beneficiaries. Remember that charitable giving, not just government transfers, provides society a way to redistribute income and ameliorate inequalities. If a donor would give $1 less because of a loss of a deduction worth $1 in reduced taxes, the donor's net income doesn't fall at all; some charitable beneficiary somewhere receives $1 less in charitable goods and services.

There's also a longstanding issue of equal justice or horizontal equity that reinforces the incentive case for a charitable deduction even for those with higher levels of income. Think of this in the context of a simple tax system that assesses a tax rate of 20 percent on all income. If you make $100,000 a year and give away $30,000, should you be taxed like someone who makes $100,000 and gives away nothing or like someone with $70,000 of net income? Without a tax deduction, the net income of someone who gives away $30,000 is $50,000; with a deduction, it's $56,000. The nongiver still has $80,000 left in either case. If one wants to tax higher-income people more, increasing taxes on all of them may be fairer than simply going after charitable donors.

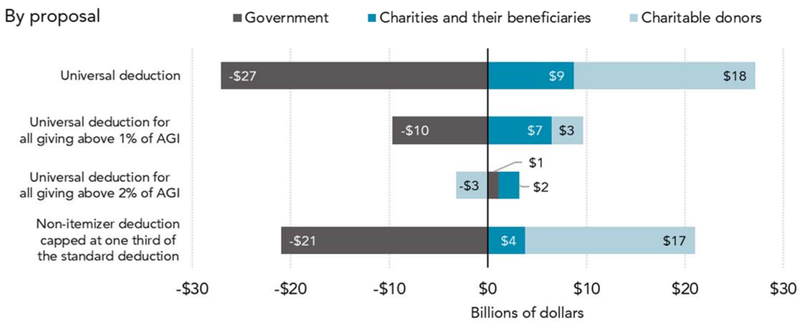
DESIGNING A MORE UNIVERSAL DEDUCTION

In a recent brief, my colleagues Robert McClelland, Nikhiti Airi, Chenxi Lu, Aravind Boddupalli, and I (2019) examined how lawmakers could expand the existing deduction, at whatever revenue cost Congress entertains, to maximize benefits for people who rely on charities. Some parts of the following discussion come from that brief and a related paper. In this research we used a modest estimate of the behavioral response to incentives, one that does not take account of the potential long-run signaling power of an incentive. A higher estimate for the behavioral response, however, would tend to show the same relative advantages of different types of proposals.

It's easy to design a subsidy that mainly benefits taxpayers but not charitable beneficiaries. For example, the $300 per tax unit nonitemizer charitable deduction in 2020 provided charitable recipients with as little as $100 million at a cost of $1.5 billion in forgone Federal revenue (Steuerle 2020). Since most donors already give more than $300 annually, the subsidy created an incentive for almost no one. And the IRS has almost no way to audit bogus claims, effectively making the $300 deduction available to any nonitemizer, whether they donate to charity or not. A somewhat similar $300 subsidy per individual taxpayer in 2021 had the same features.

FIGURE 2

Effect of Charitable Subsidies on Net Income Compared to Current Law



Source: Tax Policy Center Microsimulation Model (version 0319-2).
Note: AGI = adjusted gross income.

To better understand the effectiveness of the charitable deduction, we created a balance sheet that shows how income of government, taxpayers, and charitable recipients changes under various proposals (Figure 2). As noted above, additional contributions represent transfers that flow through charities to their beneficiaries, while the change in the taxpayers' net income equals their increase in contributions less their additional tax saving. We used a behavioral response commonly applied to this type of analysis. If you double that behavioral response, the increase in charitable contributions would be about double what you see in the chart, but the relative advantages of proposals, measured by increase in giving relative to the revenue cost to Treasury, stay about the same.

We first studied an unrestricted deduction that would allow both itemizers and nonitemizers with a positive tax liability to deduct their contributions. While this would create a new tax break for many households, it would be very inefficient at helping the beneficiaries of charities since most of the subsidy would go for donations that would have occurred anyway.

On net, an unrestricted charitable deduction would have lowered Federal revenue in 2019 by about $27 billion but increased contributions by only $9 billion.

We also examined several alternative forms of a universal deduction. One version would allow a single deduction for itemizers and nonitemizers alike only for contributions in excess of 1 percent of the taxpayer's adjusted gross income (AGI), and another would subsidize contributions only in excess of 2 percent. A third would provide a separate deduction for nonitemizers for any giving up to one-third of the standard deduction—for example, up to a little more than $8,000 in 2020 for most married couples.

Compared with an unrestricted universal deduction, a 1-percent floor would reduce contributions by about a quarter but cost only one-third as much. Put another way, a universal deduction with no floor would cost $17 billion more than a universal deduction with a 1-percent floor, while generating only $2 billion extra for charitable recipients. The rest would be an additional windfall for taxpayers.

Any floor also makes converting to a more universal deduction more progressive by eliminating some deductions from current itemizers with little effect on their incentive to give.

The nonitemizer deduction of up to one-third of the standard deduction would have cost more than $20 billion in 2019 but increased contributions by less than $4 billion. This proposal runs into three sets of problems that limit its incentive effect: it provides subsidies for first dollars of giving that would be done anyway, it caps incentives for those moderately generous taxpayers who are often the backbone of the charitable sector, and, once again, it spends a lot on higher-income taxpayers who already itemize charitable contributions but switch to the standard deduction.

The Switcher Problem

Almost all attempts to expand the charitable tax deduction runs into what is called the "switcher" problem, whereby substantial tax benefits are provided to those who already itemize their deductions.

Consider a married couple in 2021 who pays $10,000 in State and local taxes, contributes $20,000 to charities, and declares itemized deductions of $30,000. Now suppose that an unlimited charitable deduction had been allowed. The couple already could deduct any additional amount given to charity, so the incentive effect of the new regime is practically nil. The couple nonetheless would have received a windfall from the change in the law, as it could then have taken a standard deduction of $25,100 as well as a charitable deduction of $20,000, thereby getting an additional $15,100 in total deductions. Though current itemizers are not the intended target of additional subsidy dollars, they would still garner a large share—so large that a simple universal deduction would provide higher total tax subsidies for the richest 20 percent of households than for any other quintile (Steuerle et al. 2021).

A nonitemizer deduction with a cap runs into the same issues. Suppose the cap for the married couple is $8,000. By switching to the standard deduction, a couple formerly itemizing with $8,000 of charitable giving within $26,100 of itemizable expenses could now garner $7,000 of additional deductions. In this example, the couple also moves from a world where they had an incentive to give some additional dollars to one where they had no incentive, at least for up to $1,000 of additional giving.

By using a floor under which charitable contributions are not allowed, Congress can limit these types of gains for those already itemizing and improve the progressivity of an expanded deduction. A floor is also consistent with other provisions in the tax law that limit the deduction to expenses that are above normal.

A universal deduction above 2 percent of AGI increases charitable giving while raising revenues for government.

Is there a sweet spot where government can increase giving without any loss in revenues? My colleagues and I found that a floor of 1.9 percent would just about break even for government under the law in place after 2017 but before COVID–19, while raising contributions by about $2.5 billion. If Congress were to restore subsidies to pre-2017 levels, a revenue-neutral floor of less than 1 percent would efficiently promote giving.

Proposals with floors also avoid providing the highest average additional subsidy to the 20 percent of taxpayers with the highest incomes who often already itemize.

ADMINISTRABILITY

Unfortunately, the current charitable deduction has serious enforcement and tax administrative problems. It's not simply that tax administration is collapsing under the weight placed on it. An IRS that audits significantly less than 1 percent of taxpayers can hardly discover whether voluntarily reported transactions are valid. How can it possibly trace what cash I threw in the collection basket or donated to someone? This problem provides a real threat to creating a more universal deduction that would potentially add tens of millions of additional returns claiming hundreds of millions of individual contributions for which verification would be difficult if not impossible.

Reporting on Charitable Contributions

A more universal deduction with a floor under what charitable contributions can be deducted helps avoid adding to the IRS's administrability problems. And to be clear, at least for those owing positive tax liability, it is still a deduction universally *available* to anyone giving amounts closer to what the average giver contributes.

But that still leaves the problem inherent even in current law. Over 30 years ago I went on an IMF mission to China and tried to explain how tax administration works in a market-based economy. One top Chinese administrator kept asking questions about how many people we punished. I tried to explain that what makes our tax system work—at least to the extent it does work—are accounting systems where private parties need and want accuracy; the IRS can latch onto those private accounting systems, rather than try to audit everyone, which it can't do anyway, or severely punish the noncompliant.

These accounting systems take advantage of divergent interests within the private sector. Workers want to be paid the amount that businesses want to deduct. Banks want to deduct the same cost of interest that savers want to receive. Value-added taxes work because buyers want to get full credit for the tax already paid by the intermediate producer before them. Tariffs worked for millennia because buyers and sellers would gather to inspect bills of lading. In each case, tax administrators rely mainly upon systems of accounting in place because one party to the transaction wants to insure against overreporting, and the other party against underreporting.

Unfortunately, we have no such system in place for charitable contributions, even though the taxpayer wants to take the maximum deduction possible and the charity wants to receive the maximum contribution. When there is both reporting and withholding to IRS, mainly for wages that can be computer matched, the net underreporting is estimated to be only 1 percent; when there is substantial information reporting to IRS on items like interest and dividends, the figure is more like 5 percent. Compliance rates fall off substantially from there, even when there is partial reporting to IRS (Figure 3).

We really don't know how well charitable contributions are reported partly because the IRS doesn't study this matter to any great extent. But, even if the IRS tried, it has no way of judging the accuracy of many claims. If Congress tripled the size of the IRS, it could probably audit more people for confirmation, especially of individual contributions above $250, for which charities are supposed to provide acknowledgment to donors. But auditing is terribly expensive, burdensome to taxpayers, inadequate even in the best of cases, and fairly useless when no records are available. Bottom line, there is no way on this green earth that the IRS can check on and audit billions of charitable transactions under current, very outdated systems of accounting and reporting.

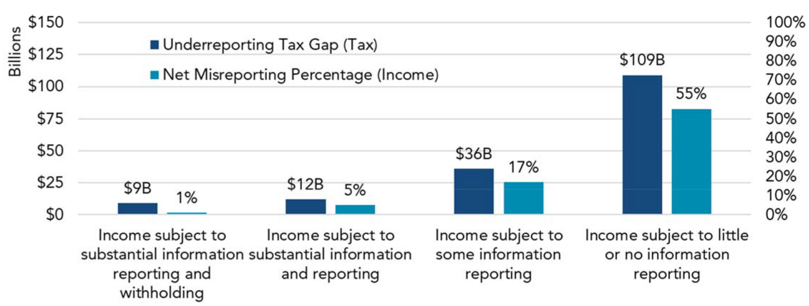
Though I focus here mainly on limits for IRS enforcement, there are also burdens on taxpayers. Think of all taxpayers now having to keep track of the extra dollar of contribution implicit in each box of Girl Scout cookies purchased.

FIGURE 3

"Visibility" Chart

Tax Year 2011–2013 Individual Income Tax Underreporting Tax Gap and Net Misreporting Percentage Estimates

By "Visibility" Category of Income Items



Source: Tax gap estimates for tax years 2011–13, https://www.irs.gov/statistics/irs-the-tax-gap.

Fortunately, there may be no more opportune time for Congress to create a system of electronic reporting for charitable deductions.

In an era where recording of transactions extends even to cryptocurrency, I have little doubt that technology can easily meet the challenge of creating a much better and not-too-expensive system of reporting to the IRS. Third-party intermediaries, including tax preparers, payroll providers, and credit card companies, likely would create ways to do this easily. If people don't want to share their Social Security numbers, they could make their contributions through, say, tax preparers who already must know that Social Security number. Or people might limit that information by channeling their contributions through a single donor-advised fund, as some people do already to simplify their tax filing. Almost all transactions today are recorded electronically. I give to many charities, large and small, and nary a one doesn't generate electronic information for me.

Even if Congress does not require electronic filing for everyone, it could limit the eligibility for a more universal deduction to contributions made through recordkeepers. With so many taxpayers ineligible today for a charitable deduction, Congress would still be significantly expanding the number of people who get a deduction. No charity need be left out except on its own volition. And perhaps some subsidies for administrative costs could be made available to charities for a transition period.

I don't deny that charities would need time and effort to adjust to a better information system, but bearing that cost might support an even more generous deduction than Congress could otherwise supply. A more generous deduction might, in turn, generate tens of billions of dollars of additional contributions annually and help create a more transparent sector with fewer temptations for donors and charities. Moreover, the charities with the least sophisticated accounting systems likely depend more on less wealthy donors. If so, most of their contributors don't get a deduction currently anyway.

In-Kind Charitable Contributions

Some attention must also be paid to the ability of IRS to monitor in-kind charitable contribution (Colinvaux 2019). More than 83 percent of noncash charitable donations in 2018, or over 11 million donated items valued at over $12 billion, were in the form of clothing or household items (Statistics of Income, IRS, for 2018). Imagine multiplying that number of items several fold with a more universal deduction.

Issues here extend from outright cheating to questionable valuations to costs to Treasury in excess of what flows through to the charities. Most of us have probably gotten the blank slip to fill out ourselves when we donate some items. Also consider the case where someone uses a household good or piece of clothing a few times, donates it, and values it at half the original market price. Then a profit-making firm acting as an agent for a charity transfers the item to a thrift store. There the item sells for one-twentieth of its original value, and most of those proceeds are paid to the store and the profit-making agent. Such a set of transactions may be totally legal, even though the charity gets only a tiny fraction of what the donation cost the government.

Another option often put on the table is to allow deductions for the sales price of complex assets. Again, I wonder whether this type of reform would reduce charitable giving very much; if so, the additional revenue pick-up could be put back into a better incentive for more administrable contributions.

If we can't figure out better ways to deal with these and other types of in-kind contributions, then perhaps the more universal deduction should be confined to cash contributions.

SALIENCY AND BEHAVIORAL SCIENCE

The behavioral public finance literature encourages us to think about psychology, not just economic incentives, when designing features of a tax system.

Allowing Deductions at Time of Tax Filing (the April 15th Idea)

For more than a quarter-century I have suggested that allowing deductions up until April 15th or the time of filing of a return would provide more bang per buck, or increased contributions relative to revenue cost, than almost any other reform.

My thoughts came from some simple observations. First, the best time to advertise the value of a charitable deduction is when people fill out their tax returns and tax preparers help them look for additional ways to reduce taxes. Second, many people tend to underestimate their marginal tax rate or the size of the subsidy for giving. They may equate the subsidy rate with their average, not marginal, tax rate. At filing time, however, tax preparers and tax software companies can show people directly how much they would save for each $100 of contributions they make. They can also help taxpayers donate enough to avoid any significant penalty for underpayment of taxes due.

A version of this alternative deadline for claiming charitable deductions was included in the America Gives More Act that passed the House of Representatives in July 2014.

Since this additional advertising does almost nothing to change the size of the incentive (other than perhaps a minor timing change on when the contribution is made), the cost to the Treasury is modest, perhaps $15 or $30 (or the average marginal tax rate that applies to contributions) for every additional $100 contribution made.

In April 2016, Alex Rees-Jones and Dmitry Tabuinsky, two scholars who work at the intersection of public economics and behavioral economics, prepared a brief on "Tax Psychology and the Timing of Charitable-Giving Deadlines." They examined this type of reform in more detail and concluded that it would likely increase charitable giving when (1) individuals, who tend to be focused on the present more than the future, can claim an incentive payment very quickly after the donation; (2) tax rules are more salient and more likely to be examined by the taxpayer, as at tax filing time; and (3) taxpayers, who are generally tax averse, find immediate opportunities to turn that aversion into reducing taxes even as they are paying them.

To deal with the enforcement issues I relayed above, however, this April 15th allowance might be allowed only for contributions accompanied by an improved reporting system, as is the case with IRA contributions that can also be made up to the time of tax filing. Otherwise, at least one Treasury official I talked to in the past feared that some taxpayers would take the deduction twice—for example, on April 15, 2022, for 2021 income taxes and again in 2023 for 2022 taxes.

Lottery Winnings

People who come into sudden windfalls by winning lotteries are quickly get confronted with the tax consequences. If winners are charitably minded, they might make donate some of or all their winnings, then find themselves unable to take a full deduction for that donation.

Suppose I spend $1 on a winning lottery ticket that has a 1 in 10 million chance of winning $5 million. If I donate the ticket to a charity before the lottery drawing, I effectively have given away a ticket only worth 50 cents, and the income from the winnings would flow directly to the charity. Of course, charities might not even want to handle contributions of almost worthless lottery tickets. When I win and try to give the winnings away, however, I probably can't avoid paying tax on up to $2 million or so of the winnings (when the maximum deduction is set at 60 percent of AGI).

Why not simplify this whole mess for lottery winners and grant them a limited period within which to donate the winnings, or some share of the winnings, to charity with no deduction limit? Why trap them into the arcane formalities of the tax laws? The most salient time for people to think about what to do with possible winnings is when they win, not when they buy the ticket.

Matching Grants Versus Tax Reductions

A third way to consider behavioral science is to consider matching grants in lieu of tax reductions. I recognize that I am bringing up many difficult issues here, including potential cross-jurisdictional authority across congressional committees and direct expenditures versus tax subsidies.

Consider a taxpayer with an effective tax deduction of 40 cents for a dollar contributed. In effect, that taxpayer's net contribution is 60 cents, and the government effectively provides a 2-for-3 or 67-percent match for the net contribution. The 67-percent figure sounds higher than the 40-percent figure, yet the $1 tax-deductible contribution is equivalent to the 60-cent contribution matched by a grant. I've already discussed how many taxpayers may underestimate the size of the incentive they face with today's deduction. Many further likely also underestimate the size of the government match.

For at least some donors who give away the same gross amount either way and ignore incentives, the amount going to charity will be much higher with a matching grant. In the example above, the $1 eligible for a tax incentive yields only $1 to the charity and 40 cents back to the taxpayer; the matching grant yields $1.67 to the charity and nothing back to the taxpayer.

As one example of this type of arrangement, for over 6 years the United Kingdom offered a UK Aid Match, run by the Foreign, Commonwealth and Development Office, to support public engagement in international development work. It matches generous donations from the public pound for pound. Total subsidies are capped, however, which severely limits the impact of the program and its net incentive effect.

These three examples show ways we can use behavioral science to create a more effective design of charitable subsidies.

CONCLUSION

In the early 1990s I wrote a book called *The Tax Decade.* The title alluded to the fact that almost every major tax, budget, and spending reform of that decade was led by efforts within the Senate Finance and Ways and Means committees. Almost all those reforms engaged in trade-offs that would offend someone. Today many members of Congress, as well as constituents, talk about the failure of those very same processes. I think that failure relates directly to our increasing inability as a people to accept that trade-offs are necessary to enact good policy—that money used one way inevitably can't be used another way. And we pull Congress in the same direction. Yet reforms that require trade-offs must be led by Congress and can't be expected from membership organizations that try to represent all their members.

Based on that experience, I recommend turning to nonpartisan or bipartisan congressional or other staff to provide options based upon how well they improve charitable giving at whatever net subsidy dollars you specify. Along those lines, I suggest paying close attention to how the societal, not just individual, value of giving can be promoted; how for any given level of subsidy, caps significantly weaken and floors significantly strengthen the incentive provided; how to decrease rather than add to compliance problems for IRS while using the saving from improved compliance to provide a more generous charitable incentive; and how making incentives more salient can add to charitable giving.

All these recommendations aim to create a more participatory charitable sector, along with maximum gains for charitable beneficiaries for whatever total subsidy level Congress provides.

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QUESTIONS SUBMITTED FOR THE RECORD TO C. EUGENE STEUERLE, PH.D.

QUESTION SUBMITTED BY HON. RON WYDEN

Question. In the CARES Act, Congress created a non-itemizer charitable deduction of up to $300 in 2020, which was later extended and expanded for 2021. You proposed a number of thoughtful policy options in your testimony which would make charitable incentives more efficient. But some proposals to better target giving incentives may not be supported by the broader charitable sector.

Where are the areas of disagreement? And are there practical ways to bridge those divides?

Answer. 1. *Enforcement and Administration.* One area of disagreement is over enforcement and administration. I believe this is an optimal time to make a more extended deduction in exchange for a system of reporting to the IRS, though I realize some charities will object to the additional burden. I suppose that one could offer the more extended deduction only for those contributions that are reported to the IRS, thus taking nothing away from any charity that it doesn't already have. In that "political" sense, it would create no losers. Charities would then "volunteer" to report to trigger the expanded deduction for donors.

In the long run, however, I think the charitable sector is already hurt by a deduction that is not well administered, while the American taxpayer loses out by the extent of cheating that this lack of administration likely invites. Creating a greatly expanded deduction could exacerbate both problems and damage the reputation of charities. If one creates an expanded deduction with some notion that some later Congress could tackle the issue, charities would be much more likely to view that later effort simply as an attack on them, rather than a modest new burden enacted to get an enhanced deduction.

By the way, there are numerous ways in which taxpayers can limit access to their information about themselves. For instance, they could contribute through an intermediary such as a tax preparer or a donor advised fund that maintained anonymity and provided the matchable documents to IRS.

2. *A floor.* Much of the study of economics is built around the notion of marginal incentives. Most all economists would agree that a floor (*e.g.,* a deduction only for giving above, say, 1 or 2 percent of income) provides much more charitable giving per dollar of contribution made. A few charities, mistakenly in my view, believe a floor would leave out many of their donors. But this seems to be based on their receipt of some average contribution like $300 to that charity alone, when most donors give to multiple charities. Moreover, most very small givers have never been eligible for a charitable deduction, even under pre-2017 law.

Suppose that Congress allowed a deduction for giving above 1 percent of AGI (subject to a reporting requirement, which, in my view, is the only way it can be administrable). This is a *universal* deduction option for everyone who gives more than 1 percent of income. Note that 2 percent is the average for all taxpayers and 3 percent is closer to the average for givers, those who give some positive amount). Additionally, the whole purpose of the standard deduction and the floor under medical expense deduction was to limit burdens not just to IRS but to taxpayers when amounts are small.

3. *Tradeoffs.* Like other organizations, charities have difficulty dealing with tradeoffs. Their membership organizations want to be appreciative to each member of Congress for anything they can get. Also, they fear offering trade-offs and then

only getting the raw end of the bargain in some deficit cutting exercise. To deal with their own constituencies and members, they often get trapped in supporting efforts that give away money to most charities without any to give up anything, even when such an incentive is a very bad deal for most charities relative to one that would increase charitable giving more for the same level of cost.

I believe the only way to help the sector representatives get their members to face up to the trade-offs is to present equal cost options. By its very nature, a fixed budget for considering options shows the trade-offs involved. (To be clear, this can be done at multiple levels of fixed budgets; at each level, the trade-offs are then made apparent.) As I indicated in my testimony, those options should be accompanied by estimates of the amount of charitable giving generated from each option. Then the sector representatives can tell their members that, say, "Here's option 1. It costs, say, $10 billion but generates only $2 billion in charitable giving and $8 billion of net taxpayer relief that doesn't go for charitable purposes. Option 2 also costs $10 billion but likely generates $10 billion in charitable giving." While there are more winners and losers in the second option, this comparison allows both the charities and Congress to keep eyes on the prize—the charitable beneficiaries we are trying to help.

Mr. Chairman, a number of years ago you expressed admiration for my work in helping organize and design the study that led to the Tax Reform Act of 1986. One of the reasons that engagement worked politically was that the negotiations that followed were conducted under a set revenue goal. Advocates were then forced to argue for why their alternative was superior to others. I think the Senate Finance Committee, along with Ways and Means and Treasury, will soon be facing a period where tax, budget, Social Security, and Medicare reform will force many tougher comparisons and tradeoffs to be considered. I realize that the tax treatment of charitable contributions represents only a modest amount policy arena compared to some of these other issues. Setting up a good process now can set a precedent that might be quite helpful for the future.

QUESTION SUBMITTED BY HON. MIKE CRAPO

Question. You have raised a lot of tax-specific points that are important for the Finance Committee to consider. In your written statement, you raised an interesting idea: that perhaps Congress should allow individuals to take deductions for charitable donations up until the time of the tax return filing deadline.

Even if implemented correctly, what other challenges do you think could arise?

Answer. I have heard two objections made to this provision. First, some people might be confused as to whether the donation at time of tax filing might again be available the following year. For instance, I take a deduction at tax filing time in 2021 on my 2020 return. I then must be sure not to take the deduction again in 2021. (The same issue arises with IRA contributions.) I think that potential problem is easily solved by a system of reporting. If not the more elaborate system required with a more universal deduction, then simply make this option available exactly at time of filing. Almost everyone uses tax software or an accountant who uses such software that could report accurately just when and how the deduction is made.

The second objection I have heard is that contribution deductions at time of tax filing change the status quo for charities that emphasize end-of-year advertising. I don't find this very convincing in an age when charities send out requests year-round. First Tuesday or other "days of giving" offer yet another recent option that many charities latched onto. They didn't ask the First Tuesday organizers to shut down because people confuse it with end-of-year efforts.

The main reason for offering a deduction at time of tax filing is that by making the size of the tax incentive transparent, it is highly likely to increase the perceived incentive to give. Taxpayers also like to get refunds rather than write checks to Treasury, and this option allows them to make avoid those extra payments. As a result, the bang per buck for this option is greater than almost any other that I have been able to conceive. If a taxpayer is in a 25-percent bracket, any extra giving yields something like a 4-to-1 ratio of extra giving relative to extra cost for the Treasury.

Why doesn't such a ratio exist for the current deduction? That deduction provides incentives for every dollar of giving, not just additional dollars. For the most part, the deduction at time of filing doesn't really add any new incentives for the dollars of giving already being made; it simply makes apparent the incentives so as to entice additional giving.

In my testimony, I have quoted some behavioral economists who provide related arguments on why this incentive might be fairly powerful.

I invite you also to look at the small proposal I made with respect to lottery winnings. State governments might also be able to take advantage of this type of simplification to encourage winners of their big lotteries to donate to charity.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. The deduction for charitable donations is meant to encourage contributions that benefit the public. With donor-advised funds, the donor gets the deduction now, but the charitable benefit may not happen for years.

Are there any reforms to donor-advised funds that should be considered?

Answer. To me the questions surrounding donor advised funds are ones that apply to charity more generally. To give a few examples:

First, endowments and assets. Charities that grow their endowments and assets, whether defined as endowments at all, tuck away far more money that sits in donor advised funds. All asset buildup defers the spending of money for charitable beneficiaries, to some extent favoring future beneficiaries over current ones. I have asked charities whether they would prefer to have an endowment (or more assets, whether labeled "endowment" or not), and most of any size almost uniformly indicate, "Yes." It's not clear to me, therefore, that "spend now, not later" argument applies more to DAFs than other charitable assets.

There's also a technical question whether DAF rules could prevent operating charities from effectively running DAFs. For instance, an operating charity might tuck away enough operating funds to offset any payout requirement.

The DAF is a far more flexible instrument than many other assets and endowments within the charitable sector. For instance, the donation of a building to a charity determines the use of those funds for decades or even a century to come and typically locks in assets and their use far more than a DAF. DAFs also tend not to be locked into fulfilling some donor intent that may be a less efficient use of charitable money down the road.

Second, political uses of charities. The use of charities for political purposes is indeed an issue but is hardly confined to donor-advised funds. Whatever rules need to apply here, including on disclosure, seems to me to be considered across the charitable sector.

Third, self-dealing. One issue that tended to drive past rules for foundations was self-dealing or using the foundation for control of a business. If that is an issue, then I would try to think of rules here that identify the abuses. Also, here it seems sensible to require national DAFS to ensure that the fund investment they sponsor have as low of a fee structure as is available for equivalent investments in the market generally.

Fourth, the wealthy. In a study of rules applying to foundations, Ben Soskis and I found that the motivation that led to the 1969 Act, sometimes by Democrats and sometimes by Republicans, centered around suspicion of the wealthy and what they were doing with the money. Treasury did focus its study leading to that Act in part on money was tucked away and not paid out over time. If that's the issue here, then perhaps some simplified payout rules such as apply to foundations should apply to very large DAFs. Keep in mind, however, that the very wealthy generally don't get a current contribution deduction anyway for giving away very much of their wealth (most of their income is accrued, not realized). They can avoid most rules by simply giving away less, or, as some wealthy donors already are doing, setting up a "not-for-profit" firm that generates little income because it gives away its money or subsidies activities at below cost.

My experience as a cofounder of a community foundation is that DAFs are sometimes created to build up funds for specific purposes. Some are of modest size, and annual payouts may make little sense. Some are meant to provide permanent support to the community foundation, as when one designates a regular payout for that purpose but wants to maintain flexibility in case some other need becomes greater. Some are modest family efforts for the long-term purpose of teaching children and grandchildren to give. At the community foundation, we might have one fund for accumulating money to garner public support for a swimming pool or building, but, again, the donors may want to maintain flexibility in case that option doesn't work out. Another fund might gather money for racial equity work, with uncertain dates as to how and when that money will be distributed. Most DAF donors give away money to non-DAF charities; if combined, their "effective payout" is quite high even if the DAF pays out little in a given year.

Finally, I note again that charities build up assets all the time. The main distinction with a DAF is that the right of decision-making for future rests with donors or someone they designate; at the same time, the money is often much more flexible and not locked up for some specific purpose.

Question. We have heard that reforms which require tracking when donations come in and when they are distributed from donor-advised funds can be an administrative burden.

Do you have ideas for ameliorating any administrative burden that may exist?

Answer. If you go down this route, I suggest just using beginning-of-year asset value to determine some minimum payout, though, as noted above, even a minimum payout, other than perhaps for some foundation equivalent treatment very large DAFs not set aside for some specific future purpose, gives me concerns. If you're referring to some limited life rule, it could become much more complex in trying to date every dollar of income that comes in or goes out so that each dollar has the "right" limited life. Our community foundation relies upon some donors for year-after-year contributions of a certain percentage of DAF assets for the operations of the community foundation itself.

The appeal of DAFs is their simplicity, which very likely increases charitable giving. I would try to avoid any rule that forces people to create multiple DAFs to get around the rules, weakens the attractiveness of this inducement to additional giving, and restores the power over endowments only to the big players rather than the democratization of endowment giving that DAFs have helped create.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. In your testimony you raised important policy considerations for developing a cost-effective universal charitable deduction. In the CARES Act, Congress established a temporary non-itemizer deduction for small dollar donations that expired at the end of 2021. This deduction is strictly limited to cash donations and contributions to certain organizations do not qualify.

In the event Congress decides to extend this deduction, do you have a view on whether Congress should maintain or eliminate the current restrictions?

Answer. Many types of in-kind deductions are extremely hard to administer and enforce. Even with a well-designed reporting system, a good case can be made for limiting a more universal deduction to cash. For some types of assets, it might be reasonable to allow the deduction when the charity sells the asset, though I think in-kind donations each have their own sets of enforcement issues and offer different type of regulatory or self- regulatory options that need to be considered.

Question. In addition to enacting a non-itemizer deduction, Congress also sought to boost charitable giving during the pandemic by relaxing limits on the individual and corporate itemizer deduction. These provisions temporarily allowed individuals to deduct up to 100 percent of AGI and corporations to deduct up to 25 percent of taxable income.

Do you have any data or information you could share on the effectiveness of these provisions? What should Congress consider in deciding whether to extend either provision?

Answer. I do not have empirical evidence on the effect of these higher deduction limits. In many cases, corporations can treat charitable contributions as expenses of doing business or creating goodwill, so I'm not sure how effective that higher corporate limit is, other than making it easier to "market" their charitable efforts (which may be a good thing). A higher individual deduction, on the other hand, does add to incentives, though historically we have found that temporary incentives often lead many donors to change the timing of their donations over years to maximize the incentive they receive. We have also found that people often take time to learn about incentives, so a more permanent increase tends also to have a higher annual effect than a temporary one. But, as I say, most of this is theoretical speculation about the latest limits, not empirical.

Question. In your written testimony, you discuss issues pertaining to in-kind charitable contributions. Last year, Richard Rubin of *The Wall Street Journal* tweeted that at a tax conference a senior IRS staffer had expressed concerns that people were donating yachts and claiming deductions far greater than the fair market value. This is concerning to me as I led efforts in the 2000s to clamp down on such abuses by limiting the deduction for a vehicle or boat, including a yacht, to its sale value in most cases and strengthened rules governing appraisals where a fair market value deduction continued to be permitted.

Do you have any suggestions for reforming our reliance on appraisals to correct this problem?

Answer. Many in-kind contributions are extremely hard to value. I gave the example in my testimony of gifts of clothing that might legitimately get valued at a multiple of any money that eventually goes to charities. As for yachts, the incentive to take the higher of reasonable appraisal values may still exist.

When I've talked to IRS officials, they tell me that they simply don't have the resources to tackle these issues. First, very few people get audited. Then, even if they are audited, the auditor may have no expertise with yachts or easements or other types of in-kind gifts. Next, the auditor would have to decide how much time and money would be required to pay different appraisers to come up with some alternative valuation. Further costs would be entailed for IRS if the taxpayer decided to fight the alternative appraisal. Finally, IRS must consider how many other important audits have been neglected as a result of expensive audits of in-kind contributions.

IRS often gets limited support for its efforts here, as well. Since the losses from excess deductions usually are shifted to the Treasury and the public it represents, private assessors, charities and government recipients of gifts often have little or no incentive to restrict valuations to more appropriate levels.

One solution for some in-kind gifts would be to allow a deduction only upon final sale; one might also consider some requirement as to what minimum portion of declared valuation must be turned over to charities. In some cases, charities might be held accountable for the assessment, with some strict penalties for noncompliance. The charitable sector might also be engaged to come up with strict standards.

The time to bargain with the sector over these issues is while Congress is considering expanding the charitable deduction. It is entirely proper to ask something in return from the sector to ensure that the dollars provided by Congress most likely lead to increases in charitable goods and services, not just claimed deductions that do little for charitable beneficiaries.

Question. On December 22, 2020, I released the results of an investigation conducted by my staff into the relationship between World Vision, a 501(c)(3) non-profit organization, and the Islamic Relief Agency, which had been sanctioned by the U.S. government. My investigation concluded in part, "A more robust and fundamentally sound system of screening and vetting is needed to restore the public's trust that contributions to World Vision are not funding illicit organizations." The full results of that investigation are available on my webpage here: *https://www.grassley.senate.gov/news/news-releases/grassley-releases-results-investigation-world-vision-s-interactions-isra.*

Do you believe that charities have implemented adequate safeguards to ensure that grants from the U.S. Government and donations from Americans are not even inadvertently funneled to the benefit of individuals or groups that have been sanctioned by the U.S. Government? Are there additional steps charities can take to ensure they are following applicable rules and regulations, or is there any action Congress should take to promote that compliance?

Answer. I do not know the full story behind this particular incident. I do know from experience that many charities have to pay a higher hourly rate to their lawyers and accountants than to their own staff, so I worry about the net impact of expanded regulatory requirements. Groups like World Vision, Catholic Relief Services, and Lutheran World Relief also attempt to maximize the amount of money that reaches beneficiaries. These groups inevitably face problems everywhere in trying to help beneficiaries avoid having to pay bribes or be sucked up in some other misuse of funds in areas when the rule of law is not well established. Determining the legitimate needs of beneficiaries is also difficult at home and abroad. For instance, the food bank at my church has limited ability to monitor each beneficiary, just as State governments face problems in determining true eligibility for welfare.

I don't know any perfect way to deal with these issues. At best, government can establish imperfect bright lines and continually try to reassess them. But very limited resources have been provided by both Congress to IRS and by State officials to their Attorneys General to monitor this and many other aspects of the charitable sector.

Question. In an article published in 2020 in the *Maryland Law Review,* Professor Johnny Rex Buckles concludes in part, "Federal tax law permits foreign actors to influence U.S. politics and policies through their interactions with American charities."[1] He goes on to note in his conclusion, "Even the existing restrictions on lobbying, and the prohibition against political campaign intervention, safeguard against only the most obvious exploitation of charities by politically motivated foreign actions."[2]

In a theoretical case study, the article presents an example where a Russian oil baron donates to a U.S. charity that educates the American public on the dangers of fossil fuels with the intent of promoting increased regulation of U.S. fossil fuel interests that would serve to confer a comparative advantage on their Russian competitor.

This example may in fact not be very theoretical. In an opinion piece published in *The Hill* in March of 2022, Institute for Policy Innovation resident scholar Merrill Matthews wrote, "U.S. policymakers are finally realizing that Russia may have been covertly funding U.S. environmental organizations to shape public opinion and policies—especially energy and anti-fossil fuel policies—to Russia's liking and benefit. Such Russian skullduggery has long been an open secret in Europe."[3]

Do you have concerns that foreign actions are able to exploit U.S. tax-exempt organizations to promote their own priorities and extend influence over U.S. policy?

Answer. Yes, I certainly do. Though my concerns extend far beyond foreign actors and tax-exempt organizations. The "noise" that surrounds our policy discussions today is increasingly exploited to mislead and create division among us. I have no easy answers here, though higher levels of penalties to individual actors, not just organizations, might be considered.

Question. Are there reliable measures of how much foreign money is poured into U.S. non-profit entities and the source of that funding?

Answer. I do not know the answer to this question. I believe one could engage some statisticians and social scientists to help tease out whether a better answer could be obtained with some surveys. Better reporting might also make it possible to come closer to an answer.

I might also note that IRS recently dropped the requirement that nonprofits (other than 501(c)(3)s) provide the Schedule B (major donor disclosure) to the IRS. That was one of the few tools available to track the financing of nonprofits.

Question. Do you have an estimate of funding for U.S. non-profits that originated from sources aligned with Russia, or Russian policy priorities?

Answer. No, I do not.

QUESTION SUBMITTED BY HON. TODD YOUNG

Question. During the hearing, I had the opportunity to discuss with Dr. Osili some of the barriers to establishing more community foundations around the country. Unfortunately, I did not have enough time to solicit your response to that question.

Given your experience as founder and chair emeritus of ACT for Alexandria, what Federal barriers, if any, did you observe that may prevent or hinder the creation of more community foundations across the country? For any Federal barriers you identify, please provide your recommendations to address them.

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[1] Johnny Rex Buckles, "Curbing (or Not) Foreign Influence on U.S. Politics and Policies Through the Federal Taxation of Charities," *Maryland Law Review,* Vol. 79:590 (2020).
[2] *Id.*
[3] Matthews, Merrill, "Russia used 'soft power' to influence EU policies and anti-fossil fuel efforts," *The Hill,* March 22, 2022, available at *https://thehill.com/opinion/energy-environment/599113-russia-used-soft-power-to-influence-eu-policies-and-anti-fossil.*

Answer. I cannot think of any major Federal barriers right now. Some of the efforts with respect to DAFs—in particular, limited life for DAF funds, if applied to community foundations—might easily have prevented the survival of the community foundation I helped found. I applaud the efforts of the broader foundation community to create, encourage, and continually improve standards of operation for community foundations.

Prepared Statement of Hon. Ron Wyden, a U.S. Senator From Oregon

The Finance Committee meets this morning to discuss ways to go about promoting charitable giving in America. Americans are generous people, and that's why charity is one of the key incentives embedded at the heart of our tax code and a top priority for Democrats and Republicans on this committee.

I've always said that the charitable tax deduction is a lifeline, not a loophole. That's never been truer than it was in early 2020 when the pandemic arrived in the United States.

Over the course of just a few weeks that March, the pandemic wiped out a quarter of a million jobs in my home State of Oregon. This is in a State with a workforce of just over 2 million people. In a flash, Oregon's unemployment rate jumped by 10 percentage points. As terrible as those figures are, other States had it even worse in terms of those early pandemic job losses. More than 22 million Americans lost their jobs or had their hours reduced to zero. The unemployment rate hit 14.8 percent, the highest ever recorded.

That economic devastation added to a hunger crisis that had been causing pain among families in America for far too long. According to the Children's Defense Fund, prior to the pandemic, more than 10 million American children were growing up in households where there wasn't enough to eat. Black and Latino families were twice as likely to be short on food. Again, that was the situation before anybody had heard of COVID–19.

The crisis exploded in 2020. Everybody remembers the images of cars stacked up for miles outside of food pantries. There was an added challenge of feeding vulnerable children, many of whom were unable to get the free lunches they rely on for nutrition at school.

The committee is fortunate to be joined this morning by my Portland neighbor Susannah Morgan, the CEO of the Oregon Food Bank. She's going to share with us the story of how this crisis hit Oregon families, as well as how her wonderful organization was able to respond through the 1,400 food pantries it supports across Oregon and into southwest Washington. Many times, prior to the pandemic, I'd seen the Food Bank's incredible work firsthand. And the Food Bank found an extra gear over the past 2 years to support families in need.

The record shows that in 2020, in Oregon and across the country, Americans stepped up when their neighbors needed help. Charitable giving reached new highs. The Federal and State Governments also stepped up.

There are some important lessons this committee ought to consider going forward, because there are still millions and millions of people across the country who need support. Organizations like the Oregon Food Bank are still seeing demand at higher levels than they did in 2019.

Two quick examples. First, the CARES Act, which the Congress passed in March 2020, included a tax deduction for charitable donations of up to $300 for the vast majority of taxpayers, who don't itemize their tax returns. The 2017 tax law took some of the punch out of the existing charitable tax deduction by greatly reducing the number of taxpayers who itemize. The new $300 deduction helped correct that, and it helped promote giving in 2020. It was extended and expanded in 2021, but it expired on January 1st. There ought to be bipartisan interest in reviving it and expanding it to promote even more giving.

Second, in addition to promoting donations, the Senate ought to look at ways of helping nonprofits operate, keep their doors open, and keep their workers on the job. The CARES Act also created an Employee Retention Tax Credit that helped save a lot of jobs nationwide, and it was also extended and expanded in 2021. The credit was designed with parity for nonprofits in mind, so that those nonprofits and their workers could benefit just like other employers.

Last year, along with Senator Brown, Senator Klobuchar, and Senator Schatz, I also introduced a bill called the WORK Now Act, which would help nonprofits grow and hire. It would create a new grant program to help nonprofits retain staff and hire unemployed Americans—while also supporting their efforts to scale up the services they offer.

My view is, organizations like the Oregon Food Bank are part of the backbone of the communities where they operate. In addition to promoting charitable giving, it is a no-brainer that the Congress ought to find smart ways to help those nonprofits do their essential work too.

Communications

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Statement of Laura L. Lott

Chairman Wyden, Ranking Member Crapo, and members of the Committee, thank you for the opportunity to submit this statement. My name is Laura L. Lott and I am the President and CEO of the American Alliance of Museums (AAM). Thank you for holding this hearing. We urge Congress to enact a universal charitable deduction, expand the IRA Charitable Rollover, and restore and expand the Employee Retention Tax Credit (ERTC). We also request that Congress restore the 100% AGI cap on individual donations and the 25% income tax cap on corporate donations that expired at the end of 2021.

Representing more than 35,000 museum professionals and volunteers, institutions—including aquariums, art museums, botanic gardens, children's museums, cultural museums, historic sites, history museums, maritime museums, military museums, natural history museums, planetariums, presidential libraries, railway museums, science and technology centers, and zoos—and corporate partners serving the museum field, AAM stands for the broad range of the museum community.

Before detailing these priorities for the museum field, I want to express my appreciation for Congressional relief for nonprofit charitable organizations, including museums, which helped them cope with and respond to the devastating impact of the COVID–19 pandemic. Early in the pandemic, essentially all museums were closed to the public. 33 percent of directors felt their museums were at some risk of permanent closure without immediate support—a threatened loss of 12,000 museums and 124,000 jobs. While federal relief funding and tax policy provisions have provided critical lifelines, a recent survey [1] shows attendance remains down 38 percent on average from pre-pandemic levels and 17 percent of directors still feel there is some risk of closing permanently without additional relief.

Museums—the vast majority of which are 501(c)(3) nonprofit organizations—play a key role in education, job creation, tourism, economic development, historic preservation, environmental conservation, and advancing scientific literacy and global competitiveness. They are essential community infrastructure and are part of a vibrant and diverse charitable nonprofit sector. In unity with the broader nonprofit sector, we support the requests in this coalition letter [2] and urgeCongress to strengthen charitable giving incentives to ensure that all nonprofits, including museums, have the resources to serve their communities.

Museums are essential community infrastructure for many reasons:

Museums are economic engines and job creators. According to "Museums as Economic Engines: A National Report," U.S. museums (pre-pandemic) support more than 726,000 jobs and contribute $50 billion to the U.S. economy per year. The economic activity of museums generates more than $12 billion in tax revenue, one-third of it going to state and local governments. For example, the total financial impact

[1] *https://www.aam-us.org/2022/02/08/museum-field-experiencing-compounding-financial-losses-new-survey-reveals/.*

[2] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf.*

that museums have on the economy in the state of Oregon is $585 million, including supporting 9,740 jobs. For Idaho, it is a $228 million impact supporting 3,098 jobs. This impact is not limited to cities: more than 25% of museums are in rural areas. The import of these data is not the numbers alone—but the larger point that museums give back tremendously to their communities in numerous ways—including economically.

Museums are key education providers. Museums spend more than $2 billion yearly on education activities; the typical museum devotes 75% of its education budget to K–12 students, and museums receive approximately 55 million visits each year from students in school groups. Museums also answered the call and significantly ramped up online educational programs and resources for students and families throughout the pandemic. Museums help teach the state and local curriculum in subjects ranging from art and science to history, civics, and government. Museums have long served as a vital resource to home-school learners. It is not surprising that in a public opinion survey, 97% of respondents agreed that museums were educational assets in their communities. The results were statistically identical regardless of political persuasion or community size.

Museums will be essential to rebuilding communities as we emerge from the pandemic. During the COVID–19 pandemic, museums across the country have continued contributing to the ongoing education of our country's children by providing lesson plans, online learning opportunities, and drop-off learning kits to teachers and families. They are using their outdoor spaces to grow and donate produce to area food banks, as well as maintaining these spaces for individuals to safely relax, enjoy nature, and recover from the mental health impacts of social isolation. They provided access to childcare and meals to families of health care workers and first responders, have donated their PPE and scientific equipment to fight COVID–19, and are serving as vaccination centers. Despite the financial and psychological stress caused by the pandemic, museum professionals are filling the gaps to meet the needs of their communities and will be vital to their recovery. Museums are demonstrating the critical role they play in our country's infrastructure and deepening their social impact in their communities, addressing learning loss, and fostering intra-community trust and dialogue.

Congress Should Enact a Universal Charitable Deduction

Contributions to 501(c)(3) charities such as museums are tax-deductible, incentivizing those who itemize deductions to greater generosity. Only about ten percent of taxpayers now itemize, however, and multiple measures show that both the amount given and the number of donors were declining prior to the pandemic. Giving appears to have increased during the pandemic, especially smaller gifts, due to the temporary provision that allowed people to deduct up to $300 ($600 for couples) of charitable gifts even if they do not itemize.

The deductibility of charitable gifts is of fundamental importance for museums. Charitable giving accounts for more than one-third of museums' operating funds. The CARES Act established a limited and temporary deduction for non-itemizers. Data from various sources shows that after declining in 2019, charitable giving increased following the temporary enactment of a "universal charitable deduction" that allowed everyone to deduct. A universal charitable deduction democratizes giving by incentivizing all taxpayers to contribute, regardless of income.

We urge the renewal—and expansion—of the universal charitable deduction to make it permanent. Along with other members of the Charitable Giving Coalition,[3] we urge members of the Committee to cosponsor the Universal Giving Pandemic Response and Recovery Act, S. 618, which would renew the universal charitable deduction that expired at the end of 2021 and is a step in the right direction. The legislation would raise the $300/$600 cap to roughly $4,000 for individuals/$8,000 for couples, renew the availability of the deduction through the 2022 tax year, and make gifts to donor-advised funds eligible for the universal charitable deduction. We applaud the Committee's cosponsors of S. 618, including Senators Lankford, Cortez Masto, Scott, Stabenow, Hassan, and Brown.

Expand Existing IRA Charitable Rollover

We support the bipartisan Legacy IRA Act, S. 243, sponsored by Senators Stabenow and Cramer. Currently, individuals aged 70.5 and above may contribute up to $100,000 from their IRA accounts to charity, counting it toward their required distribution, but not paying tax on it. The Legacy IRA Act would expand this provision

[3] *https://charitablegivingcoalition.org/universal-charitable-deduction/.*

by allowing gifts to planned giving accounts, raising the cap to $400,000, and lowering the age to 65. Seniors typically make up more than 40% of the donor base for charities. This bill expands the existing IRA Charitable Rollover, which is the fastest growing area of philanthropy. Recent survey data from FreeWill's online giving platform found a 390% increase in total IRA Charitable Rollover gifts from 2019 to 2021. A modified version of the Legacy IRA Act was included in the Securing a Strong Retirement Act, H.R. 2954, and we urge the Senate Finance Committee to include S. 243 in a future retirement package.

Retain and Expand the Employee Retention Tax Credit

The ERTC has been a critically important tool for nonprofits, including museums, to be able to rebuild and continue to deliver critical services to the communities that they serve, now and into the future. Moreover, many nonprofit employers had been counting on quarter four 2021 access to the ERTC to support the decisions they have made to bring employees back on the payroll and increase operating capacity to serve their communities. Unfortunately, the Infrastructure Investment and Jobs Act (IIJA) eliminated ERTC for the fourth quarter of 2021, which hurt museums that were planning on this relief.

We urge members of the Committee to cosponsor the bipartisan Employee Retention Tax Credit Reinstatement Act, S. 3625. It retains the ERTC for nonprofits, including museums, and small businesses in the fourth quarter of 2021, allowing organizations to keep critical staff on the payroll to continue meeting community needs. The Act was introduced in early February by Finance Committee Members Senators Hassan, Scott, Warner, Cardin, and non-Committee member Capito. We are grateful for their leadership.

This action to retain the ERTC is supported by the broad cross-section of the nonprofit sector,[4] the third largest employer in the U.S. economy (and the for-profit business community). Nonprofits, including museums, continue to serve communities across America during the pandemic. Now they need Congress to at a minimum retain this tax policy through at least the 4th quarter. Ideally, Congress ought to extend it throughout 2022 to help ensure a strong economic recovery from the pandemic. Congress can also take action by improving this critical form of promised COVID–19 relief by amending the definition of "gross receipts" under the law to better reflect revenue available to support nonprofits amid the ongoing COVID–19 pandemic.

In closing, I encourage members of the Committee to visit the museums in their states to witness firsthand the positive impact they have on their communities and the importance of charitable giving to their public service missions. Thank you for taking time to hold a hearing on these critical issues and for the opportunity to submit this statement.

AMERICAN HEART ASSOCIATION
National Center
7272 Greenville Avenue
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On behalf of the American Heart Association (AHA) and its more than 40 million volunteers and supporters, we thank you for the support shown to the charitable sector during the COVID–19 pandemic. AHA is the world's leading voluntary organization focused on heart and brain health and research, and we are proud to have funded more than $4.6 billion in cardiovascular research since 1949. We appreciate the opportunity to share our recommendations on the incentives that can help support charitable giving and urge the Senate Committee on Finance to include the bipartisan Legacy IRA Act (S. 243) in future retirement legislation.

Rapid Response of American Heart Association to COVID–19

For the approximately 120 million people in the United States who have one or more cardiovascular diseases, this is a particularly worrisome time. Cardiovascular disease and hypertension are associated with more severe coronavirus cases and an increased fatality rate of two or three times higher than the general population. The situation is even more dire for communities of color, where reports indicate that minorities have been disproportionately affected by COVID–19 and have suffered high-

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[4] *https://www.namanow.org/wp-content/uploads/Letter-Urging-Inclusion-of-ERTCRA-in-Omnibus-Final.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20March%207%202022&utm_medium=email.*

er rates of death. There is also mounting evidence that COVID–19 may lead to heart failure, stroke, kidney failure, chronic lung disease, blood pressure abnormalities, neurological conditions, and other long-term health complications in people who have survived the virus.

AHA recognizes the urgency of this issue and is part of the global response. AHA responded quickly to the pandemic in March 2020 by funding rapid response research awards to better understand COVID–19 and its interaction with heart and brain systems. This initiative offered fast-tracked research grants for short-term projects to better understand the diagnosis, prevention, treatment, and clinical management. In December 2021, as COVID–19 variants continued to spread, AHA announced a $10 million research initiative to fund new studies on the long-term effects of the disease. These initiatives—and others like them—would not be possible without charitable giving.

Need for Charitable Giving Will Continue Beyond Pandemic

AHA urges Congress to reinstate and expand the temporary universal charitable giving deduction that expired at the end of 2021. This charitable deduction to non-itemizers at $300 for individual and $600 for couples filing jointly along with the suspension of adjusted gross income (AGI) limitations for cash gifts and increase in limitation for corporate gifts were all valuable to incentivizing giving behaviors. Every day, charities are holding communities together with essential services amid the health and economic crisis, but they need support, including charitable giving from generous donors. Findings from a recent poll released by Independent Sector show 88% of Americans support making the universal charitable deduction permanent for all taxpayers.

American Heart Association leads a coalition of approximately 60 national charities which support the bipartisan Legacy IRA Act (S. 243), co-sponsored by Senators Debbie Stabenow (D–MI) and Kevin Cramer (R–ND). The Legacy IRA Act will encourage more charitable giving by enabling seniors to make contributions from their individual retirement accounts (IRA) to charities through life-income plans. Seniors are a key demographic as they typically make up more than 40 percent of the donor base for charities. This is an expansion of the existing Charitable IRA Rollover provision, which is the fastest growing area of philanthropy. Data released this week from FreeWill's online giving platform shows the value of the current Charitable IRA Rollover as there was a 390 percent increase in total number of gifts from 2019 to 2021. And yet, in a survey of 300+ nonprofit professionals, 23 percent said these gifts came from high net worth or upper middle-class individuals.

The Legacy IRA Act would expand this giving incentive to more middle-income seniors. A modified version of the Legacy IRA Act was passed as part of the "Securing a Strong Retirement Act" (SECURE Act 2.0), and we urge the Senate Finance Committee to include S. 243 in its version of this retirement package.

AHA joins with many others in the nonprofit community in urging Congress to reinstate and expand the temporary universal charitable deduction and pass the Legacy IRA Act along with reinstating the temporary suspension of AGI limitations and increasing the limits on corporate giving. We stand ready to be of help should you have additional questions about these requests. Please feel free to contact Emily Holubowich, Vice President of Federal Advocacy, at Emily.holubowich@heart.org.

LEADERSHIP 18
701 North Fairfax Street
Alexandria, VA 22314

March 2022

The Honorable Ron Wyden
Chair
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Richard Neal
Chair
U.S. House of Representatives
Committee on Ways and Means
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
U.S. House of Representatives
Committee on Ways and Means
Washington, DC 20515

Dear Chairmen Wyden and Neal and Ranking Members Crapo and Brady:

Leadership 18 supports the bipartisan Legacy IRA Act (S. 243/H.R. 2909), a bill to encourage charitable giving by enabling seniors to make tax-free contributions from their individual retirement accounts (IRA) to charities through life-income plans.

To operate effectively and advance our tax-exempt purpose, we are dependent on private philanthropy, including gift planning. A few years ago, when the IRA Charitable Rollover provision was made permanent, many of our organizations saw a dramatic increase in charitable giving from traditional IRAs. Data from FreeWill's online QCD giving platform shows the value of the current Charitable IRA Rollover as there was a 390% increase in total number of gifts from 2019 to 2021. And yet, in a survey of 300+ nonprofit professionals, 23% said their QCDs came from high net worth or upper middle-class individuals. The Legacy IRA Act would expand this giving incentive to more middle-income seniors.

The undersigned CEOs support the Legacy IRA bill, which would allow seniors to make tax-free IRA rollovers to charities through life-income plans, such as charitable gift annuities. The senior's annual retirement income from the life-income plan is fully taxed. We believe this new giving option will be particularly attractive to middle income seniors, a critical demographic as seniors make up more than 40 percent of the donor base for most charities.

Leadership 18 is an alliance of CEOs responsible for leading some of the country's largest and most well-respected charities, non-profits, and faith-based organizations. As a group, member organizations have served over 400 million people, with 42.7 million staff and volunteers, and represent more than $80 billion in total revenue. We are a community of leaders who share a profound commitment to ensuring that all individuals have the opportunity to contribute to a vibrant America, and with opportunity and effort, can live their lives to their fullest potential.

Leadership 18 offers our support and is willing to work with you and other Members of Congress to enact the Legacy IRA bill on its own or attached to a larger legislative vehicle, such as the Securing a Strong Retirement Act. America is stronger when everyone has the opportunity to give, to get involved, and to strengthen their communities.

Sincerely,

Leadership 18

Signers:

Nancy A. Brown
Chief Executive Officer
American Heart Association

Gail McGovern
President and CEO
American Red Cross

Artis Stevens
President and CEO
Big Brothers Big
Sisters of America

Jim Clark
President and CEO
Boys and Girls Clubs
of America

Sister Donna Markham
President and CEO
Catholic Charities USA

Charlotte Haberaecker
President and CEO
Lutheran Services in America

Schroeder Stribling
President and CEO
Mental Health America

Ramsey Alwin
President and CEO
National Council on Aging

Sofia Chang
Chief Executive Officer
Girl Scouts of the USA

Stephanie J. Hull
President and CEO
Girls Inc.

Steven C. Preston
President and CEO
Goodwill Industries
International, Inc.

Jonathan Reckford
Chief Executive Officer
Habitat for Humanity
International

Eric D. Fingerhut
President and CEO
The Jewish Federations
of North America

Mike King
President and CEO
Volunteers of America

Suzanne McCormick
President and CEO
YMCA of the USA

Margaret Mitchell
Chief Executive Officer
YWCA USA

Commissioner Kenneth G. Hodder National Commander The Salvation Army	Jody Levison-Johnson President and CEO Social Current

Help Seniors Increase Charitable Giving

Legacy IRA Act of 2021 (S. 243)

Background

First passed by Congress more than 15 years ago and made permanent in 2015, the Charitable IRA Rollover is a tax provision making it easier for seniors to use traditional IRA assets to make charitable donations. This provision allows individuals starting at age 70½ to make direct donations to qualified 501(c)(3) charities up to $100,000 annually from their IRAs. The donations are not counted as income.

Since then, nonprofits have reported a surge in this type of charitable giving. The IRA Charitable Rollover has generated millions of dollars to local and national charities in the past few years alone.

The Legacy IRA Act: A Win-Win for Donors and Charities

The Legacy IRA Act builds upon the IRA Charitable Rollover by allowing seniors to make tax-free IRA rollovers to charities through life-income plans, such as charitable gift annuities. The senior's annual retirement income from the life-income plan would be fully taxed. The bill allows seniors starting at age 65 to make a life-income plan gift up to $400,000 annually. Additionally, the bill raises the IRA Charitable Rollover annual cap to $130,000 and indexes this figure for inflation—an important step as the cap hasn't been increased since 2006.

The bipartisan Legacy IRA Act would give seniors more flexibility to make charitable donations from their traditional IRA accounts. An IRA rollover through a life-income plan would provide the senior with a secure income for life. After the donor passes away, the charity receives the remainder of the gift to be used towards their mission. This new giving incentive is anticipated to be particularly attractive to middle-income seniors. Growing charitable giving from seniors is critical for nonprofits as seniors are more than 40 percent of the donor base for most charities. Increasing charitable giving will allow nonprofits to continue to provide critical services in local communities such as health research and patient education, food assistance, domestic violence services, childcare, youth homeless shelters, and cultural and arts programming.

Bill Status

The bipartisan Legacy IRA Act was introduced by Senators Cramer (R–ND) and Stabenow (D–MI). This coalition strongly urges Congress to pass the legislation on its own or as part of a broader retirement package. It is expected to raise $1 billion annually for charities.

In the House of Representatives, a modified version of the Legacy IRA Act (H.R. 2909) was introduced by Representatives Beyer (D–VA–08) and Kelly (R–PA–16). This proposal was included in the bipartisan Securing a Strong Retirement Act of 2021 (H.R. 2954), led by Ways and Means Committee Chairman Neal and Ranking Member Brady. The Securing a Strong Retirement Act of 2021 was unanimously approved by the committee in May 2021. The Legacy IRA provision is estimated to cost $2.266 billion over ten years by the Joint Committee on Taxation.

This coalition strongly supports the bipartisan Legacy IRA Act and urges Congress to pass the legislation on its own or as part of a broader retirement package.

The Undersigned Coalition of National Nonprofits Supports the Bipartisan Legacy IRA Act

Arab Community Center for Economic and Social Services (ACCESS)	Council on Foundations	National Association of College and University Business Officers
ALS Association	Covenant House International	National Community Action Partnership
Alternate ROOTS	DANCE/USA	National Council of Nonprofits
Alzheimer's Association and the Alzheimer's Impact Movement	The Evangelical Lutheran Good Samaritan Society	National Health Council
American Alliance of Museums	Girl Scouts of the USA	National Multiple Sclerosis Society

The Undersigned Coalition of National Nonprofits Supports the Bipartisan Legacy IRA Act—Continued

American Cancer Society Cancer Action Network	Girls Inc.	The Nonprofit Alliance
American Council for Gift Annuities	Goodwill USA	OPERA America
American Heart Association	Habitat for Humanity International	Performing Arts Alliance
American Lung Association	Hemophilia Federation of America	Providence St. Joseph Health
American Red Cross	Immune Deficiency Foundation	The Salvation Army USA
Americans for the Arts	Independent Sector	ServiceSource, Inc.
Asian Pacific Community Fund	JDRF	Social Current
Association of Art Museum Directors	Jewish Federations of North America	Theatre Communications Group
Association of Fundraising Professionals	League of American Orchestras	UNICEF USA
Big Brothers Big Sisters of America	Lutheran Services in America	United Philanthropy Forum
Boys and Girls Clubs of America	March of Dimes	Volunteers of America
Catholic Charities USA	Mental Health America	YMCA of the USA
Council for Advancement and Support of Education	National Alliance on Mental Illness	YWCA USA
Council for Christian Colleges and Universities	National Association of Charitable Gift Planners	

We urge Members of Congress to support the Legacy IRA Act. For more information about the bill, please contact Emily Horowitz at American Heart Association at Emily.horowitz@heart.org.

LETTER SUBMITTED BY MELANIE ANTHONY

March 17, 2022

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510–6200

I have worked in the Oklahoma nonprofit sector since 1997 addressing food insecurity, the unhoused, mental health and economic development.

It is particularly important to keep the $300 deduction. I agree with Dr. Steuerle's statement that the peak of giving in 2020 did not meet the need of the charitable community.

Giving is critical because, at some point, it is important that those who working in the nonprofit sector, specially social services, are paid living wages. Those front-line workers are often paid at a low wage. Those who chose to work in the nonprofit sector, helping those in crisis, should not themselves find themselves struggling to meet their family needs.

Unless charitable giving increases to not only meet the needs of those in our various communities, especially those underserved and overlooked communities, we will continue to see an exodus of nonprofit employees.

Historically, when nonprofit professionals would leave their nonprofit, it was really about climbing the nonprofit job ladder. It would usually include a title change, minimal increase in salary and maybe a better work environment. The nonprofit sector has always been forced to work with minimal budgets unlike our corporate counterparts—as if serving others, having personal fulfillment and growth pay the rent, buy groceries and school supplies. They do not.

The nonprofit sector, particularly social services, are seeing workers get agitated, overwhelmed and burnout at rates not seen before. Nonprofit employees are leaving the sector in masses.

Any opportunity to continue to offer incentives to give to charity to increase charitable giving would allow nonprofits to not only meet the needs of those in crisis in their communities, but also invest in those doing the hard, forward-facing, often traumatic work.

Thank you,

Melanie Anthony

ASSOCIATION OF ART MUSEUM DIRECTORS
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Statement of Christine Anagnos, Executive Director

The Association of Art Museum Directors (AAMD) is composed of the directors of approximately 225 of the leading art museums in North America, including more than 200 in the United States. We are grateful for the opportunity to submit written testimony on charitable giving and trends in the nonprofit sector.

All AAMD members in the U.S. operate on a not-for-profit basis. Nearly all are organized under Section 501(c)(3) and qualify as public charities, though many also have hybrid governance structures in partnership with state and local governments as well as public and private colleges and universities. They generally depend on charitable giving for about a third of their operating budgets. Gifts both large and small come from those who support museums' work, though as at most charities, small gifts far outnumber large ones. Moreover, about 80 percent of museum collection objects arrived as charitable gifts.

For that reason, AAMD supports federal incentives for charitable gifts of both cash and property and for donors of both large and small gifts. Chief among these incentives are the itemized charitable deduction; the deduction for non-itemizers, which was enacted as a temporary provision in 2020 and expired at the end of 2021; and the IRA Charitable Rollover, a relatively recent provision whose use is growing as more taxpayers become aware of it.

As may be clear, these incentives can be utilized by specific groups of taxpayers: itemizers, non-itemizers, and seniors. AAMD believes it only fair that all taxpayers are incentivized to give, and for that reason we support the retention of the itemized deduction, the reinstatement and expansion of the non-itemizer deduction, as provided by S. 618, introduced by Senator Lankford and cosponsored by Finance Committee members Cortez Masto, Hassan, Scott, and Stabenow; and the expansion of the IRA charitable rollover as provided by S. 243, introduced by Sen. Stabenow and cosponsored by Finance Committee members Cornyn and Daines. Both of the aforementioned bills are bipartisan and are supported across the charitable sector. We share the concern of many in the charitable sector that confining the availability of tax incentives to a narrow slice of upper-income taxpayers could deeply harm the vitality of civil society.

During the pandemic, art museums have profoundly changed how they interact with the public, finding new audiences online, often among people who were not visitors before. Whether filling time or looking for online educational programming for their children, people found what they were looking for in art museums. According to an extremely large-scale study conducted in the first months of the pandemic *(culturetrack.com/covidstudy),* 40 percent of art museums' online audience had not physically visited in the previous year. As a visitor cited in that study said:

"Right now, I am looking for things to do with my children that allow us to be together and to enjoy something I don't have to organize myself. I want them to learn and to experience the world."

Similarly, during the social and political unrest of the past two years, art museums have found themselves in new and expanded conversations about their role in the community, as well as about how and for whom they have used their collections. Practices built on previously unquestioned assumptions are changing. An ever-growing priority on audience and community needs has consequences for museums' physical plants as well curatorial and educational practices. To cite one example, the Portland (ME) Museum of Art changed its expansion plans, which had been necessitated by a growing collection and audiences: instead of simply adding gallery space, the new facility will include space for local nonprofits, with the aim of lacing the museum more fully into Portland's cultural and community life. To cite another, an exhibition currently at the Cleveland Museum of Art reexamines the art historical canon through new scholarship, focusing on six key works of Black art in the museum's collection, as well as an accompanying publication that delves into the materiality, making, and relevance of the works. Together, they seek to transform how art history is written, introduce visitors and readers to complex objects and theoretical frameworks, illuminate meanings and untold histories, and open new entry points into Black art.

Because of charitable giving, art museums are accessible. One-third of AAMD member museums offer free admission to all, and two-thirds offer free admission for children under 12. Those with admission fees nearly always offer some form of free admission (for example, a weekly or monthly free day) and discounts for seniors and students. Many museums participate in Museums for All, an initiative that provides free or reduced admission to people who present an Electronic Benefits Transfer card. AAMD estimates the average cost of admission at AAMD museums to be about five dollars or less. At the same time, the cost to museums per visitor is about $54, based on 2019 figures. *Charitable giving subsidizes the difference.*

While we do not have field-wide data on use of the non-itemizer deduction and IRA Rollover, anecdotes abound. For example:

The Des Moines Art Center reports that its highest level of membership growth was in the $250 to $550 range, which grew by 14 percent in 2021. It also reports good use of the charitable rollover.

The Cleveland Museum of Art reports that IRA Rollover gifts increased by 140 percent in 2021.

The Walters Art Museum in Baltimore, MD found that messages about the tax deduction in 2020 and 2021 were effective in generating a number of gifts of $300 and $600 from museum supporters. As for the IRA Charitable Rollover, the museum saw a 498% increase in gifts from FY20 to FY21 and the number of participants increased by 127 percent. Gifts ranged from as low as seven dollars up to $100,000, with an average gift in 2020 of $981.

AAMD members share a commitment to serving the public, partnering with their community institutions, including health, human service, and education organizations, and applying the unique resources of the arts to serving a wide variety of purposes. Museums are anchors in their communities, often serving as the centerpiece of a neighborhood, providing jobs, attracting tourists as well as residents, and in a less literal sense, helping to form the community's identity—its sense of self.

For all of these reasons, AAMD urges Congress to retain the itemized charitable deduction; to reinstate and expand the universal charitable deduction, preferably on a permanent basis; and to expand the IRA charitable rollover.

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Statement of Mike Geiger, MBA, CPA, President and CEO

Chairman Wyden, Ranking Member Crapo and Members of the Senate Committee on Finance:

The Association of Fundraising Professionals (AFP) appreciate your efforts to seek stakeholder and public feedback about charitable giving and trends in the nonprofit sector. AFP is pleased to present the following comments based not only on research—developed by ourselves as well as in collaboration with partners in the sector—but also on the comments and perspective of our more than 23,000 members in the United States.

AFP represents both individual fundraisers and charities that raise more than $100 billion annually. Our members work for a wide variety of organizations, from multinational institutions to small, grassroots organizations, addressing every mission conceivable, from religion and social services, to education, healthcare, and the arts. Every member agrees to abide by AFP's *Code of Ethics,* the only enforceable fundraising code in the world.

Our members are on the ground, communicating with donors everyday and running capital campaigns, direct mail operations, major gifts meetings and email and social media initiatives. They see first-hand the impact of government policy on fundraising and charities and understand the importance of tax policy that incentivizes giving and volunteering.

Giving Trends and Challenges

Overall

At first glance, one might look at charitable giving numbers overall and think that the state of giving in the United States is very strong.

Giving USA 2021: The Annual Report on Philanthropy for the Year 2020, published by Giving USA Foundation, reported that overall giving to U.S. charities in 2020 reached an estimated $471.44 billion, the highest level ever recorded. Giving was led by individuals, who accounted for roughly 70% of overall giving. That giving grew to record levels in 2020, despite the pandemic, is a testament to the generosity of the American people.

In addition, AFP's own Fundraising Effectiveness Project (FEP), administered by the AFP Foundation for Philanthropy in collaboration with GivingTuesday, found that giving increased by over 10.6% and the number of donors grew by 7.3% in 2020 compared to 2019. The FEP tracks data from almost 3,000 charities, ranging in budget size from $100,000–$10 million, tending to exclude larger organizations such as hospital and universities and making the data more representative of the typical charity experience in the U.S.

However, these numbers, impressive as they are, overshadow an important trend that is slowly transforming our country's philanthropic tradition: Participation in charitable giving is declining. *The Giving Environment: Understanding Pre-Pandemic Trends in Charitable Giving,* published by the Indiana University Lilly Family School of Philanthropy at IUPUI in 2021, found that just 49.6% of U.S. households made a charitable contribution in 2018. That figure is a decrease of almost 17 percentage points from 2000, when 66.2% of American households gave charitable donations.

Fewer Americans are giving to charity every year, but fortunately they are giving significantly more. Essentially, it is wealthy Americans—what fundraisers call major donors and now even mega-donors—who are driving the increase in charitable giving every year.

The Fundraising Effectiveness Project's (FEP) preliminary 2021 data underscores this challenge. Gifts from small donors (less than $500) fell sharply and accounted for just 9.5% of all giving in 2021. The main drivers of giving, and the growth in giving seen in 2021, were again major donors.

This is not to say that the average American is not generous. Crowdfunding campaigns—where charities, other kinds of organizations and even individuals ask for very small donations from a very large group of donors—continue to be successful, and Americans are generous in these and other informal ways of giving and volunteering.

Nevertheless, this trend is a huge challenge for the charitable sector and for all of American society. Our charitable sector is a crucial partner with the governmental sector in meeting the needs of communities that are disadvantaged and straining to provide services. Our tradition of philanthropy is based on egalitarian principles where everyone contributes to the greater good. Philanthropy should not become the domain of only the wealthy. We need to encourage giving from all segments of our society, not just the wealthy, and tax policy is one means to do that.

2021

The Fundraising Effectiveness Project publishes quarterly data, and final figures from the fourth quarter of 2021 are still coming in. However, the FEP noted throughout 2021 that giving continued to grow—significantly in the first quarter (roughly 10%) and then flattening out in the second and third quarter. The FEP is estimating that giving for 2021 will have grown slightly overall, roughly by 2.7% compared to 2020 numbers, once all data is accounted for from participating charities.

However, it should be noted that giving, including the 2021 estimated increase by the FEP, is not uniform across the sector. Larger charities that are well-known tend to receive a majority of contributions. In 2015, giving to the top 400 largest charities, as noted in *The Chronicle of Philanthropy* that year, exceeded $100 billion. In 2020, roughly $1 out of every $11 donated went to the 100 largest charities in the U.S., as detailed by *The Chronicle of Philanthropy.*

During the pandemic, this trend was even more pronounced, as larger charities, especially those in pandemic relief, health care and social services, saw their giving rates increase rapidly, while smaller organizations, and especially arts and humanities groups, saw their giving shrink. 2021 data from the FEP saw this trend slowly begin to reverse as the world recovered from the pandemic, with smaller charities finally beginning to see gains in their giving rates.

However, AFP member comments from our *Fundraising Confidence Survey, January 2022* reveal that many charities, especially smaller organizations, have a long way to go in recovering from the pandemic. Fundraisers have been unable to meet with donors in-person, which is so important in developing relationships. Others report donor fatigue, whereby donors are overwhelmed by so many growing needs that originated from the pandemic and aren't as interested in giving for the moment.

In addition, just as the pandemic was winding down and fundraisers were feeling more optimistic, charities and their donors are now faced with skyrocketing gas prices, rising inflation costs, geopolitical conflict and weak consumer confidence. These challenges are likely to impact low- to mid-level donors the most, exactly the group of donors who are participating less in philanthropy.

Policy Changes to Encourage Giving

This daunting set of challenges, coupled with the household decline in charitable giving participation, could severely hinder the ability of the sector to meet the needs of communities across America. But Congress can help charities overcome these challenges and at the same time encourage more Americans to participate in philanthropy. AFP recommends that Congress support two important charitable tax giving incentives. Each will incentivize different groups of donors to give to their favorite causes and allow charities to continue to meet the needs of our communities.

Universal Charitable Deduction

The universal charitable deduction allows donors to take a tax deduction, up to a certain level, for their charitable gifts whether or not they itemize their taxes. The deduction incentivizes all donors to give but can be especially attractive for donors who make smaller level gifts, as they are typically taxpayers who do not itemize their taxes.

The universal charitable deduction has been enacted into law by Congress temporarily several times in the past only to expire and be reinstated by later Congresses. The latest version was created in 2020 through both the CARES Act and the later Consolidated Appropriations Act, creating together a deduction of $300 for an individual taxpayers and $600 for married couples filing jointly. The deduction expired at the end of 2021.

Research from the Fundraising Effectiveness Project has found that the incentive in the universal charitable deduction was quite powerful for gifts of $300, the limit of the deduction for individual taxpayers.

- There was a 7.5% jump in $300 gifts in 2020 compared to 2019 (the latest year without the universal charitable deduction).
- There was a 7.5% jump in $300 gifts in 2021 compared to 2019.

On December 31, the last day of the year when many charitable contributions are given so donors can take advantage of tax incentives, charities experienced a:

- 33% jump in $300 gifts in 2020 compared to 2019.
- 7% jump in $300 gifts in 2021 compared to 2019.

The data for gifts of $600, the limit for the deduction for couples filing jointly, also demonstrates the power of the incentive, though it's important to note that the couple's deduction was enacted in December 2020. Nevertheless, the data shows the difference the deduction had:

- There was a 1.2% **decrease** in $600 gifts overall in 2020 compared to 2019 (again, the couple's deduction was not available until December 2020).
- Nevertheless, on December 31, 2020, there was still a 12% increase in gifts of $600 compared to the same day in 2019.

Then in 2021, when the couple's $600 deduction was available throughout the year:

- There was a 5.0% increase in $600 gifts overall in 2021 compared to 2019.
- There was a 5.1% increase of $600 gifts on December 31, 2021, compared to the same day in 2019.

While there are many factors that contribute to increased donations, one contributing factor was clearly the availability of the charitable deduction to nonitemizers. The universal charitable deduction works, and this data only accounts for two specific levels of gifts, just to show the deduction's impact.

Congress can help alleviate some of the difficulties the sector is facing by approving another universal charitable deduction.

AFP encourages Senators to support and approve the Universal Giving Pandemic Response and Recovery Act led by a bipartisan, bicameral group of lawmakers, including Senators James Lankford (R–OK), Chris Coons (D–DE), Mike Lee (R–UT), Jeanne Shaheen (D–NH), Tim Scott (R–SC), Amy Klobuchar (D–MN), Susan Collins (R–ME) and Catherine Cortez Masto (D–NV), as well as Reps. Chris Pappas (D–NH) and Jackie Walorski (R–IN). The legislation would raise the previous $300/$600 cap to roughly $4,000 for individuals/$8,000 for couples and make gifts to donor-advised funds eligible for the universal charitable deduction.

We note that the deduction created through the Universal Giving Pandemic Response and Recovery Act is only effective until the end of 2022. Given the impact of the deduction, we believe that it should be extended through, at least, the end of 2023.

The universal charitable deduction will democratize giving by further incentivizing all American taxpayers—regardless of their income—to give to charity, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic and now facing challenges related to rising inflation and weak consumer confidence. We urge Congress to pass and enact the universal charitable deduction swiftly.

IRA Legacy Act

In 2015, Congress passed the PATH Act, which included the IRA Charitable Rollover provision that allows individuals age 70½ to make direct tax-free gifts of up to $100,000 annually to charities from their IRA.

The IRA charitable rollover provision is complementary legislation to the universal charitable deduction in that it is also a strong incentive for donors to give, but focuses on a different group of donors than the universal charitable deduction.

Seniors typically make up more than 40% of the donor base for a charity, and with the historically strong performance of the economy and the stock market often have significant funds in their IRAs. While some donors might balk at giving thousands of dollars in cash to a charity, transferring funds from their IRAs, especially if their retirement is taken care of, is eminently more attractive and doable.

The impact of the IRA Charitable Rollover is significant. Recent survey data from FreeWill's online giving platform found a 390% increase in total IRA Charitable Rollover gifts from 2019 to 2021. That increase is even more impressive given that required minimum distributions from IRAs were eliminated for 2020 as part of Congress' pandemic relief measures.

Given the IRA charitable rollover's effectiveness and the need for greater participation in philanthropy, AFP supports an expansion of the rollover, and specifically the bipartisan Legacy IRA Act (S. 243), sponsored by Senators Debbie Stabenow (D–MI) and Kevin Cramer (R–ND). The legislation would allow taxpayers age 65 and over to direct up to $400,000 annually in IRA distributions to charities, charitable gift annuities and charitable remainder trusts. A modified version of the Legacy IRA Act has been included as part of a bipartisan retirement package, the Securing a Strong Retirement Act (H.R. 2954) that has been approved by the House Ways and Means Committee. We urge the Senate Finance Committee to include S. 243 in a future retirement package.

Conclusion

The charitable deduction—created more than 100 years ago—is a powerful symbol of the American tradition and system of philanthropy. It represents a gesture of confidence on the part of the people by way of their elected representatives, an acknowledgement of the effectiveness of nonprofit and community action and a commitment to the longstanding tradition of philanthropy in America. The deduction binds together the interests and concerns of all of us for the betterment of our society.

The charitable deduction is the only deduction where the money a person spends or contributes doesn't benefit themselves directly. The mortgage deduction is for buying a house. Scholarship, education and health deductions relate to money spent to help a person's family. But the charitable deduction involves a selfless, generous motivation—giving to a cause that might never directly benefit the donor.

The deduction's enhancement value is clear: a calculation of the deduction shows that for every $1 of potential tax revenue invested through the deduction, the public and communities across America receive approximately $2.5 in philanthropic services. That rate of return is extraordinary. We should be investing more in the deduction and encouraging additional philanthropy though provisions such as:

- The Universal Charitable Deduction through the Universal Giving Pandemic Response and Recovery Act; and
- An expansion of the Charitable IRA Rollover through the Legacy IRA Act.

Thank you for your consideration and your work in keeping the American tradition of philanthropy strong and vibrant for decades to come.

Respectfully,

Mike Geiger, MBA, CPA
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STATEMENT SUBMITTED BY PAULA J. BEUGEN

Chairman Wyden, Ranking Member Crapo and Committee Members, thank you for the opportunity to submit this statement. Your attentiveness and action to support the nonprofit sector is vital to assuring a thriving nonprofit sector throughout the United States. I applaud and am grateful for the United States Committee on Finance's March 17, 2022 hearing entitled Examining Giving and Trends in the Nonprofit Sector. Appreciation is due to you as well as to the renowned leaders who testified in person at the hearing. Important and timely issues were raised for your consideration and further leadership. Take related action.

While I am greatly concerned about and active on a number of issues pertaining to the future of the entire nonprofit sector in the United States, volunteerism is the main focus of this brief statement to the Committee on Finance (Committee). My nearly 47 years of experience in a range of capacities in the volunteerism part of the sector prepares me to bring a particular perspective to the Committee.

A healthy nonprofit sector—including the millions of volunteers who are a key part of it—is essential to the well-being of our democracy. People who volunteer build relationships across communities and perspectives, gain greater understanding of issues confronting communities and become more informed voters. They learn and give a lot. They provide leadership and services that are not available through other means. They bring hope and often survival to many which is especially important during this daunting time in the life of our country.

Given the role volunteers play in the lives of people, communities and democracy a much greater focus on volunteerism by Congress is essential. Volunteers selflessly give of their time, talent, creativity, innovation and problem-solving abilities. Yet, minimal investment is made in assuring that volunteers who serve without a stipend have the resources and supports required to maximize the impact of their efforts. This is a great loss to all involved. We must implement strategies that help defray out-of-pocket volunteer-related expenses and strengthen the ability of nonprofit organizations to partner with volunteers in order to advance their mission-accomplishment. Steps must be taken to strengthen the volunteer community and to make the opportunity to volunteer more accessible and equitable.

To illustrate, I reflect on the issue of the charitable driving mileage rate. In an article I wrote, "Towards a More Cohesive Volunteerism Public Affairs Strategy: A Story, Steps and Lessons from Minnesota," published in *e-volunteerism: The Electronic Journal of the Volunteer Community,* Vol. IX, Issue 4, July 15th–October 14, 2009, some history around this issue was outlined. Noted in the article was that discussion of this topic was taking place back in 1981. According to the article, "Efforts to advance this cause continued throughout the 1980s and 1990s."

In 1984 the former Minnesota Association of Volunteer Directors distributed an informal survey that was redistributed to 526 volunteers. Responses were anonymous. What was learned from this group was at that time 20 percent of volunteers who responded to the survey would find it difficult to volunteer without an "adequate tax deduction for charitable driving," according to the article. The situation is exacerbated today. Many organizations and leaders subsequently advocated and continue to advocate to raise the rate. I have heard volunteers discussing that they no longer can afford to be a volunteer driver. Raise the charitable driving rate to match the allowable business rate and keep it in parity with the business rate into the future.

The above issue is one of many volunteerism topics that need to be addressed. Let's work to eliminate the recent shortage of and decline in volunteerism. An independent, substantial sector of Americans who volunteer in high quality efforts is so crucial to the well-being, stability, hope and future of our nation. Invest in our precious resource—volunteers.

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Statement of Ananda Valenzuela, Co-Executive Director

Thank you for the opportunity to share our insights, as co-founders of the BIPOC Executive Directors Coalition of Washington, a multicultural, cross-sector collaborative of 200+ Black, Indigenous, and People of Color (BIPOC) nonprofit leaders working in solidarity to promote wellness and restore resources in our communities.

We would like to amplify the excellent testimony shared by Susannah Morgan, CEO of Oregon Food Bank, and bring your attention to this quote in particular: "I would like to just drive home the fact that hunger is a symptom. Its cause is poverty, and poverty itself has a cause, which is systemic inequities. It's not an accident that our communities of color are more likely to be hungry. It's not an accident that single moms are more likely to be hungry. It's because we've designed systems to prevent prosperity and allowed those to happen. And so I would say that actions—like the ones that you have suggested that redistribute wealth and tear down barriers to prosperity—are exactly what we need our federal government to do."

Our coalition strongly agrees with the Oregon Food Bank that Congress must urgently take action on the following:

1. Reinstate the Child Tax Credit.
2. Modernize SNAP to reflect the true cost of healthy food.
3. Invest in housing and child care.
4. Raise revenue by requiring the wealthiest corporations, individuals and estates to pay what they owe.
5. Increase the amount private foundations must grant annually.
6. Ensure donor-advised funds have minimum annual distributions of at least 7% to 10% and spend-down timelines to ensure money is invested in communities and not sitting idly for decades.

As a society, we have been working to address the impacts of inequities without redesigning the structures and systems that create and perpetuate them. For generations, we have needed to do more and spend more to support the health and well-being of our communities without the adequate resources to do so. Wealthy corporations, philanthropies, and individuals benefit from the very systems that give rise to inequities. This must change in order to advance racial justice.

We look forward to continuing to be in dialogue with Congress about how best to address the systemic inequities barring us from meaningfully addressing the core challenges facing the nonprofit sector and BIPOC communities.

BUSINESS COALITION FOR FAIR COMPETITION
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The Business Coalition for Fair Competition (BCFC)[1] is a coalition of private sector firms, large and small, trade associations, think tanks, organizations, and individ-

[1] *https://www.governmentcompetition.org/*.

uals who support the competitive free enterprise system and seek relief from unfair government sponsored competition with private business.

BCFC is deeply concerned that some non-profit organizations operate activities in direct and unfair competition with for-profit, tax-paying private businesses. At a time when small business is struggling and job creation is not being maximized in the private sector, small business cannot afford to compete against non-profits that don't pay their fair share of taxes.

Private enterprise constitutes the strength of the United States economic system and competitive private enterprises remain the most productive, efficient, and effective sources of goods and services.

There are thousands of legitimate non-profits that do exemplary work filling a societal need. The tax treatment of these organizations is not an issue for BCFC. However, when the organizations encroach on private business activities, there are a number of undesirable consequences.

Entities organized under various provisions in section 501(c) of the Internal Revenue Code are provided special tax "exempt" treatment were clearly intended to perform activities and provide services otherwise considered "governmental" in nature, not those that are commercially available. A 1954 report by this Committee noted:

> The exemption from taxation of money or property devoted to charitable and other purposes is based upon the theory that government is compensated for the loss of revenue by its relief from financial burden which would otherwise have to be met by appropriations from public funds and by the benefits resulting from promotion of the general welfare.
>
> *Source: (Unfair Competition: The Profits of Non-profits, James T. Bennett, Thomas H. DiLorenzo, Hamilton Press, 1989, p. 26)*

The problem is, this policy has not been adequately codified by Congress or efficiently implemented by the IRS. The situation has become so pervasive that unfair government-sponsored competition has been a top issue at every White House Conference on Small Business.

In 1980, the first White House Conference on Small Business made unfair competition one of its highest-ranked issues. It said, "The Federal Government shall be required by statute to contract out to small business those supplies and services that the private sector can provide. The government should not compete with the private sector by accomplishing these efforts with its own or non-profit personnel and facilities."

In 1986, the second White House Conference made this one of its top three issues. It said, "Government at all levels has failed to protect small business from damaging levels of unfair competition. At the federal, state and local levels, therefore, laws, regulations and policies should . . . prohibit direct, government created competition in which government organizations perform commercial services. . . . New laws at all levels, particularly at the federal level, should require strict government reliance on the private sector for performance of commercial-type functions. When cost comparisons are necessary to accomplish conversion to private sector performance, laws must include provisions for fair and equal cost comparisons. Funds controlled by a government entity must not be used to establish or conduct a commercial activity on U.S. property."

And the 1995 White House Conference again made this a priority issue when its plank read, "Congress should enact legislation that would prohibit government agencies and tax-exempt and anti-trust exempt organizations from engaging in commercial activities in direct competition with small businesses." That was among the top 15 vote getters at the 1995 Conference and was number one among all the procurement-related issues in the final balloting.

Non-profit organizations unfairly compete with private, for-profit businesses by engaging in commercial activities, but not paying taxes.

Billions of dollars in economic activity occurs each year that is untaxed. This results in lost revenue to Federal, as well as state and local government agencies. And it creates an unlevel playing field for the private sector, particularly small business. When this occurs in universities, it unnecessarily drives up the cost of room, board, tuition and fees.

The 2013 IRS Colleges and Universities Compliance Project studied the unrelated business income tax (UBIT) for which tax-exempt entities, such as most universities, are required to pay on any activities and revenue unrelated to their tax-exempt status. The April 25, 2013 IRS report[2] "found increases to unrelated business taxable income for 90 percent of the colleges and universities examined, totaling about $90 million. There were over 180 changes to the amounts of unrelated business taxable income reported by colleges and universities on Form 990–T; and disallowance of more than $170 million in losses and net operating losses that could amount to more than $60 million in assessed taxes."

Non-profit organizations are provided special tax status under section 501(c) of the Internal Revenue Code. These groups are required to pay an "unrelated business income tax" or UBIT on its commercial or "non-exempt" activities. The IRS report showed this is not occurring.

The Federal Government first exempted charitable organizations from tax in 1913. In 1950, in response to outrageous examples of unfair competition, Congress changed the tax law by creating the UBIT. Under UBIT, revenues from sources unrelated to the non-profit's tax-exempt purpose are subject to taxation.

Attempts by government to address the problem of unfair competition have been few and far between, and those few measures that have been taken have been largely ineffective. The UBIT which was intended to level the playing field by taxing the revenues of non-profits has, for example, proven difficult if not impossible to enforce. The courts have not been able to give a rigorous and consistent definition of just what constitutes an "unrelated" business activity by a non-profit. And because the UBIT tax was to apply only to "commercial activity which is not significantly related to the purposes for which the non-profit organization was established," enforcement and collection by the IRS has been less than successful. For their part, non-profits have taken an extremely expansive view of what constitutes a related purpose, making the under-reporting or non-reporting of revenues commonplace.

Unfair non-profit competition impedes the development of small business by making it hard for them to enter markets and compete. This is significant because two-thirds of all new jobs are created by businesses with fewer than 20 employees. Because commercial enterprises run by non-profits are exempted from taxes and receive other subsidies, taxpaying businesses must bear an extra burden by paying higher taxes than they would otherwise to make up for exemptions enjoyed by their "non-profit" competitors. Unfair competition ends up crowding out of the market precisely those firms which are the principal source of new jobs—ultimately reducing the rate of economic growth.

Unfair non-profit competition takes many forms. It is YMCAs competing with private health clubs; credit unions competing with community banks; rural electric and telephone cooperatives competing with investor-owned utilities; and universities venturing out of the classroom and into hotels, mapping services, and testing laboratories. A few examples follow:

- Credit unions' tax-exemption currently costs the U.S. Treasury $2 billion annually. By contrast, the more than 6,000 community banks that are the lifeblood of towns across the country contribute $4 billion annually in taxes that support our nation and those communities;
- A bicycle rental business in Anchorage, Alaska faced competition from a non-profit entity approved by state gaming regulators—a free bike loan program for downtown Anchorage, known as the Earth Bike Program. The program lasted 2 years and forced other bike rental businesses out of business, and in one case, leave the state;
- A privately owned inn in Fredericksburg, Virginia hosts functions such as banquets and weddings. The University of Mary Washington's Alumni Center not only competes for similar events and opportunities, but it also is building a hotel less than a mile away that will further compete with the hotels, motels and other lodging destinations that are not tax-exempt. The only reason provided by lost clients for choosing the university was the lower price thanks to the tax differential. University hotels and conference centers are proliferating across the country; and
- A laundry and cleaner in San Antonio, Texas faces competition for its laundry services from a non-profit, Federal tax-exempt Bexar County (government) cooperative entity. The unfair business practice involves, in addition to competing with and eliminating the opportunity for private business services, the co-op going outside its members to provide laundry services to for-profit businesses

[2] *https://www.irs.gov/pub/irs-tege/CUCP_FinalRpt_042513.pdf.*

and hospitals throughout South Texas. It is damaging to a long-time minority owned and operated for-profit business to have to compete in this arena with its taxing entity, Bexar County.

Unfair university competition takes many forms. It is universities venturing out of the classroom and into activities unrelated to their core and exempt education mission, such as hotels, mapping services, bicycle repair, golf courses, gym and fitness centers, cultural resource assessments, testing laboratories and others. A few examples were highlighted in BCFC's 2013[3] and 2014[4] lists of the most egregious examples of unfair government competition as collected by media reports, include:

- The University of Mary Washington's Alumni Center[5] in Fredericksburg, VA not only competed for similar events and opportunities as provided by a neighboring small business in the wedding, banquet, lodging and catering business, but it also was building a hotel less than a mile away that would further compete with the hotels, motels and other lodging destinations that are not tax-exempt. The only reason provided by lost clients for choosing the university was the lower price thanks to the tax differential. University hotels and conference centers are proliferating across the country;
- George Mason University in Fairfax, Virginia announced in December 2013 it would close its hotel, the Mason Inn, after losing $11 million;[6]
- Towson University, a Maryland state University in the Baltimore suburbs, purchased air time on Washington, DC radio stations advertising a nursery school program[7] for children 2, 3, and 4 years of age and a summer camp programs for pre-teens;
- "Bluffing" to win its first contract, St. Mary's University (MN) performed[8] commercially available mapping services for the National Park Service and other clients;
- The University of Houston operates the National Center for Airborne Laser Mapping (NCALM),[9] mapping services utilizing aircraft equipped with Light Detection And Ranging (LIDAR), a technology commercialized by NASA in the 1990s. Towson also runs a mapping program[10] that has purchased television ads touting a software system that is otherwise commercially available;
- Believing that bicycle repair is inherent to the success of higher education, Virginia Tech University opened its own shop and hired a mechanic to pedal[11] services to students in Blacksburg, VA in competition with local small business;
- James Madison University in Harrisonburg, VA operates[12] a variety of charter bus and transit options to not only university students, but also to the general public including local school systems thereby in direct competition and duplication of the local market as would be provided by the small business operators; and
- Elon University in North Carolina started Live Oak Communications,[13] a communications agency that provides public relations, advertising, special event marketing, viral marketing, media relations, website development, video creation and graphic design services for businesses and not-for-profit organizations in the North Carolina region.

The previously referenced 2013 IRS report listed the following activities as within its scope of UBIT research: Fitness, recreation centers and sports camps; advertising; facility rentals; arenas; and golf.

Another form of university competition is in the schools' bookstore. These on-campus, university-owned retail operations go far beyond selling essential textbooks

[3] *http://archive.constantcontact.com/fs181/1102588223535/archive/1116149070767.html.*
[4] *http://campaign.r20.constantcontact.com/render?ca=2815dd0f-8806-4b37-8be2-c63f7bc3d6e0&c=8d26d950-49b1-11e4-96ee-d4ae5292c3f3&ch=8d2d9010-49b1-11e4-96ee-d4ae5292c3f3.*
[5] *http://jepsonalumniexecutivecenter.umw.edu/events/weddings/.*
[6] *http://www.fairfaxtimes.com/article/20131206/NEWS/131209262/1064/mason-inn-to-close-in-june-reopen-as-residential-space&template=fairfaxTimes.*
[7] *http://www.towson.edu/daycare/.*
[8] *https://www.winonadailynews.com/news/local/article—c6c019aa-74e2-11e3-a03f-0019bb2963f4.html.*
[9] *https://ncalm.cive.uh.edu/.*
[10] *http://www.towson.edu/innovation/cgis/.*
[11] *http://r20.rs6.net/tn.jsp?f=001n7O63zKQU6FBce6Ro9HNrwzqeIJiZCIEgKUh9cgTmdCWjC4MJQm3GgNCmoxlyhvlzXKS1r8fRHfs2Sk8_vklJncTqQXA4Igs1FixMkWNllVd5UyxKOTfwLIanRC05lVLl1DLdtK72h9UEWYTIlV1Gzp74CjP3OpHpOtIaV6GRkQ-x9v7LaBNuK7Tyiis_eI-GgI-8rLe4fWZBFbpT-lRWj0et3m9C-vXBWaIAoDUqfOHJNSZfQ2i0S0fxcVhoSfO10MiGPD80YpezaRXbJ6x0d1AqUD1PGpPpI8vqGW1P_baqAltcBxXP2VDIHWkO49k&c=&ch=.*
[12] *https://www.jmu.edu/transportation/regional-transportation/charter-buses.shtml.*
[13] *https://www.elon.edu/u/academics/communications/.*

to students, but compete with local, for-profit, tax-paying business in offering office supplies, clothes and apparel, computer equipment and goods under the blanket of the institution's tax exempt status. Finally, universities historically competed with travel and tour companies by offering foreign trips that looked more like vacations rather than instructional endeavors.

Schools of higher education are increasingly venturing away from their core missions of teaching and conducting basic research. Financial pressures, ranging from reduced government funding to pressures to limit tuition increases have led university presidents to transform academicians into entrepreneurs. Universities are generating revenues from commercial activities to supplement their budgets.

University engagement in commercial activities could be called the "Gatorade Syndrome." Ever since professors at the University of Florida invented the popular sports drink to hydrate football players practicing in the heat, academicians have been trying to find the next big discovery. Most simply consume tax dollars, divert scarce resources including tuition, and fail to turn profits. These university-sponsored enterprises have cost their schools millions, exacerbating an unaffordable tuition system that has made a college education a financial burden, if not impossibility, for most students and their parents.

Universities enjoy significant advantages over for-profit companies. They are eligible for billions of dollars in grants from Federal and State governments. They often have the ability to secure non-competitive, sole source contracts with government agencies. They pay no taxes. Their overhead—buildings, electricity, even equipment, is already paid for and is provided for "free." Their student labor force is either unpaid or compensated at well below prevailing market wages. They carry no professional liability insurance, do not have to pay unemployment compensation and in many cases are exempt from social security contributions. When universities enter into contracts to perform services, they usually insist on "best effort" clauses, which absolve them of ever completely finishing a project. They are also recipients of millions of dollars in free or discounted hardware and software, donated from vendor firms so that students will learn on their systems, be proficient in their use upon graduation and instill a consumer loyalty that will translate into sales once these students move up in the ranks of their private sector employers. The advantages universities bring to the market make it virtually impossible for private firms to compete.

Private sector and for-profit colleges and universities face unfair competition from government institutions. In recent years, such private schools have been singled out for attack from a bevy of regulations proposed by the federal government that create an unfair and unlevel playing field. The latest effort comes in the form of a retooled "gainful employment" regulation by the Department of Education that is impacting private sector schools and largely leaving traditional public and non-profit schools untouched. The "gainful employment" regulation prevents students—often low-income, minorities, and veterans—from having access to thousands of programs at private sector higher education institutions.

In addition, federal actions, including the "90/10 rule," regulations dealing with state authorization, and the definition of a credit hour all threaten to punish private sector schools to the advantage of traditional public institutions.

For too many years, the unfair government-sponsored competition issue has not been a top priority for Congress or Administrations of either party. The Small Business Administration's Office conducted a series of hearings and issued a report, "Government Competition: A Threat to Small Business" (March 1980), and "Unfair Competition by Non-profit Organizations With Small Business: An Issue for the 1980s" (June, 1984). The last serious look at non-profits and the UBIT by the Ways and Means Committee was by Congressman J.J. Pickle (D–TX) in 1987–1988.

In February 2013, BCFC testified [14] before this Committee including "unfair university competition" and UBIT within the hearing [15] entitled, "Tax Reform and Charitable Contributions."

From April 18 through April 25, 1993, *The Philadelphia Inquirer* presented an exhaustive investigative exposition of the multibillion-dollar world of America's so-called non-profit industries, exposing, in several different contexts, the abuses of

[14] *http://www.governmentcompetition.org/uploads/BCFC_Testimony_Palatiello_House_Ways_and_Means_Cmte_2-14-2013.pdf.*

[15] *http://waysandmeans.house.gov/event/update-new-time-camp-announces-hearing-on-tax-reform-and-charitable-contributions/.*

their unique tax-exempt status. Certainly, this sweeping indictment by *The Philadelphia Inquirer* encompasses the world of non-profit sometimes run amok. However, as you, Mr. Chairman, contemplate future oversight hearings and legislation to reform this multibillion-dollar, non-tax-paying competition for many of America's struggling small businesses, you will find valuable factual, albeit dated, information in the Inquirer series.

Source: (Non-profits: America's Growth Industry They're Called Non-profit Businesses, But That Doesn't Mean They Can't Make Money. They Do—Billions Of Dollars. At The Same Time, Their Tax-exemptions Cost Government More Than $36 Billion A Year," by Gilbert M. Gaul and Neill A. Borowski, The Philadelphia Inquirer April 18, 1993)

In February 1987, a GAO report found:

- The U.S. Department of Commerce estimates that $1.2 billion, or 1.3 percent, of the $91 billion gross national product (GNP) in 1930 could be attributed to non-profit institutions. This share grew to $131 billion, or 3.3 percent, of the $3,989 billion GNP by 1985;
- A 1975 IRS Statistics of Income (SOI) study found that for tax-exempt organizations (religious, schools and colleges, cultural and historical, other instructional, health-related services, scientific research, business and professional, farming and related, mutual organizations, employee or membership benefit, sports-athletic-recreational and social, youth, conservation and environmental, housing, inner city or community, civil rights, litigation and legal aid, legislative and political advocacy, other activities directed to individuals, other activities directed to organizations, other purposes and activities, no activity reported) on average, 39% of their total activity receipts were business receipts; and
- Complete data do not exist to quantify the nature, extent, and impact of competition between non-profits and the private sector. However, the limited data available indicate that taxable businesses and some tax-exempt organizations are increasingly competing to provide similar services.
Source: (GAO Briefing Report to the Joint Committee on Taxation; "Tax Policy: Competition Between Taxable Businesses and Tax-Exempt Organizations", February 27, 1987—GGD–87–40BR)

In March 1980, a report of the Small Business Administration (SBA) Advocacy Task Force Group on Government Competition with Small Business found:

- The activities of foundations and universities were of particular concern to a number of witnesses;
- In Fiscal Year 1978, the IRS audited approximately 17,000 of the 150,000 required filings by non-profits. Unrelated business income was discovered in 1,800 or 10.6 percent of these 17,000 audited cases. Of the 1,800 audits where unrelated business income was discovered, 46 percent (828 cases) resulted in successful action by IRS to levy additional taxes, and a combined total of $10 million was recovered. On average, the IRS recovered additional taxes at the rate of $12,078 per audited case where unrelated business income was discovered and recovery action succeeded; and
- The small business community's perception of the extent of abuse of the tax system by non-profits strongly suggests that a more extensive review of unrelated business income activities is warranted.Source: ("Government Competition: A Threat to Small Business" Report of the SBA Advocacy Task Force Group on Government Competition with Small Business, March 1980)

This is a problem that is growing, not diminishing. From 1975 to 1990, the non-profit sector grew by 150 percent, while the gross domestic product grew about 50 percent.

University competition is part of a larger problem of unfair government sponsored and tax-subsidized competition with private enterprise including government (including the insourcing of contracts performed by tax-paying private sector firms out of the private sector for performance by Federal employees), non-profits, prison industries, etc. The Federal government and universities can lower costs and increase revenue by applying the "'Yellow Pages' Test," a simple test that says if an activity is available from a private sector company found in the Yellow Pages, that activity should not be a responsibility of a college and university and, instead, should actually be performed by a tax-paying private sector firm.

In December 2012, BCFC attempted to bridge the impasse in negotiations on the fiscal cliff and sequestration by providing President Obama and Congressional leaders budget savings of $795 billion [16] by simply utilizing tax-paying private sector firms for commercially available goods and services currently performed by a government or tax-subsidized entity. The federal government can achieve $795 billion in savings simply by getting out of activities that duplicate or compete with the private sector, which subsidize unfair competition with private, for-profit companies, or by privatizing activities for which there are current or potential private sector providers. This includes:

- Enforce UBIT on commercial activities revenue of non-profits—$36 Billion.

Institutions of higher education should not be able to use their tax-exempt status to avoid paying income taxes on what are essentially commercial activities. These tax-subsidized entities should not be making the same kind of profits on activities that are virtually identical to those of a for-profit, tax-paying business.

The IRS should more vigorously enforce current rules governing the tax status of universities to assure that academic activities are indeed related to research and education, not commercial production. Here are five very specific recommendations.

1. The Department of the Treasury should be required to provide an annual public estimate of revenues lost through avoidance of UBIT.
2. The Treasury Department should provide an official public estimate of potential new revenues to the Treasury if the UBIT law were expanded to require all commercial operations of universities to pay their fair share of taxes.
3. The law should be modified or new legislation introduced that lets the Treasury Department collect taxes that insures that all commercial activities of universities are taxable. The IRS has only one option today—that is to revoke an organization's charter to do business. They simply can't administer the law the way it is.
4. Congress should amend the Higher Education Act to focus universities on their core missions—education and basic research. Legislation should be passed to apply a "commerciality" test to all non-core university activities. Any university that receives direct federal funding, or indirect funding through tax-exempt or "non-profit" status, should be prohibited for using such institutions for the performance of commercial, tax generating activities otherwise available in the private sector.
5. Universities entering a commercial undertaking should be required to form a for-profit subsidiary that must obey all the same laws and regulations that apply to for-profit enterprises. It is only when we move beyond hidden subsidies and the ineffectual regulations of UBIT that both consumers and producers, and all taxpayers, will be able to enjoy the benefits of even-handed competition. In forming a commercial subsidiary, this would help implement a "commerciality clause," and thus implement the "'Yellow Pages' Test."

Unfair non-profit competition with the private sector, and small business, is a public policy issue deserving of immediate attention and reform. This hearing will provide an important forum for the private sector to discuss the broader aspects of this issue. As Congress seeks ways to grow the economy and create private sector jobs, as well as prepare comprehensive tax reform that lowers the corporate tax rate to make American business more competitive in the global market and simplify the tax code, BCFC respectfully recommends reform of the treatment of nonprofit organizations and UBIT so that unfairness is eliminated, appropriate revenue is raised, and counter-productive tax policy that disadvantages private, for profit companies, particularly small business, is implemented.

We commend your efforts to further explore private sector complaints in this area and advance the debate. The private sector seeks a competitive environment in which all participants play by the same rules including reforms to the tax code that enable, instead of hinder, the private sector.

[16] *http://archive.constantcontact.com/fs181/1102588223535/archive/1111796462564.html.*

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March 31, 2022

The Honorable Ron Wyden
The Honorable Mike Crapo
U.S. Senate
Committee on Finance
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden, Ranking Member Crapo, and members of Senate Committee on Finance:

On behalf of the California Association of Nonprofits (CalNonprofits), a policy alliance of more than 10,000 members, I write to express appreciation for your leadership in holding a hearing on charitable giving, a topic with vital importance to the sustainability of the nonprofit sector, and for considering reforms that will help ensure that much-needed resources get to charities more quickly.

Through our advocacy, CalNonprofits protects and enhances the ability of nonprofits to serve our communities. We advocate for sufficient public investment in our communities, and because private philanthropy is also an important funding source for nonprofits, we support efforts to bring greater accountability to charitable donation utilization and greater transparency to philanthropy overall.

The events of the past two years reinforce the important role that nonprofit organizations play in providing services, from serving food to the hungry to providing clothing and shelter for Americans in need. In California, there are more than 92,000 active nonprofits. We are key economic drivers, generating 15% of the Gross State Product; service providers, providing 32% of Medi-Cal services; and employers, employing more than 1.2 million Californians.

Nationwide, many nonprofits are struggling to meet increased community needs and cover higher programmatic costs—without a corresponding increase in resources. The nonprofit workforce remains deeply affected by the pandemic. Nonprofits need resources now more than ever.

Current charitable giving laws impede the flow of resources to nonprofits, and steps must be taken to increase that flow, especially at a time when our services are most needed. For example, current law allows donors to receive an upfront tax benefit for their charitable contributions, yet when funds are donated to vehicles such as donor-advised funds (DAFs), they can accumulate indefinitely without being distributed to charities.

In other words, state and federal coffers experience significant losses as a result of these tax benefits, without the guarantee of comparable benefits to society of donated funds going to support charitable goals. Nationwide, more than $1.2 trillion sits in private foundations and $159 billion sits in DAFs. In fiscal year 2020 alone, contributions to DAFs totaled $47.85 billion, according to a 2021 National Philanthropic Trust report.[1]

We believe reform is needed to ensure that tax deductible donations get to charities in a timely way, so charities can use the funds to serve our communities. Society should benefit in a timely way that corresponds closely to the time when the tax deductions are enjoyed by donors.

We ask that the Committee support reforms to charitable giving laws so that policies are in place to free up resources currently held in philanthropic institutions, to get more funds to nonprofits, to align public benefit and public costs, and to help ensure necessary services for our communities.

We would welcome the opportunity to work with members of the Senate Committee on Finance and other policymakers as these conversations move forward. Thank you, again, for your leadership.

Sincerely,

Jan Masaoka, CEO

[1] *https://www.nptrust.org/reports/daf-report/*.

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Statement of Michael Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to address this issue. I will leave trend analysis to the witnesses. My concern is improving the taxation of this sector. Our current tax reform plan is attached for context. These comments repeat those offered in December to the Ways and Means Oversight Subcommittee on the Pandora Papers and those drafted for a hearing before the Oversight Committee on houses of worship, charities and nonprofits in June 2019 that never took place.

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.

Large religious organizations, charities and nonprofits have become big business and need to be taxed accordingly, where appropriate. Some are legally held as the property of the minister or bishop. Taxing such entities as sole proprietors makes legal sense. While this could be seen as targeting certain religious organizations, such as the Catholic and Episcopalians, their choice of organizational form is not the fault of the public. As such, their tax treatment must match similar business classes.

Charities that have commercial operations will be subject to an Invoice VAT (I–VAT), as they essentially are under the TCJA provisions in question, like any other commercial company, particularly if these operations compete with type C, type S, partnership or sole proprietor firms that pay individual taxes at pass-through rates.

The I–VAT will be collected on commercial goods. This is essential after reform to provide visibility to their customers as to taxes imposed by the entire supply chain and a commercial vendor or independent agent must pay an I–VAT. Without such treatment, every business into some form of charitable organization overnight, this would not be advisable. Fiscal conservatism should not be synonymous with empowering tax evasion schemes.

Whether non-commercial operations are subject to an I–VAT depends on the extent they are used to fund entitlement spending and payroll taxes versus discretionary government spending. For example, if Social Security or Medicare were to become I–VAT funded, thus becoming zero rated at the border and replacing the payroll tax, then charitable organizations must continue to fund these operations, as they will benefit the employees of these organizations. If, however, entitlement services are funded through our proposed Subtraction VAT S–VAT, then there is an argument to leave the non-commercial activities of these entities VAT-exempt.

Political organizations and committees also would pay S–VAT on their payroll and their purchases would not be I–VAT exempt in the long term. 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 be taxed at pass-through rates. If an S–VAT is enacted, ads through deductions for all individuals would be eliminated.

Charitable organization employees will continue to pay the employee contribution to Old-Age and Survivors Insurance, assuming it is not subsumed into our proposed Subtraction VAT (S–VAT).

Charitable organizations will pay the S–VAT because their employees will benefit from the programs funded by this levy or from offsets to it. For example, Catholic Charities employees might designate the Catholic school system as an alternative provider to public schools, which would allow Catholic Charities agencies to take a credit on this levy, which would otherwise be paid against their total value added.

Likewise, employees would be paid the same child tax credit as commercial employees—again as an offset to S–VAT levies. Health and higher education credits proposed for other enterprises would also be available to charitable organizations, as well as any other applicable credits. Note that because certain payroll and personal income taxes will be eliminated, the gross pay of charitable employees will decline in like manner to those of their commercial counterparts once tax reform is enacted.

Finally, this schema is as applicable to governmental organizations as it is to charitable organizations, with modifications. State governments would be the federal S–VAT, while federal organizations would pay the state S–VAT, both on the same basis relating to value added through payroll. These organizations would not pay the S–VAT to themselves, however their personnel systems should contain a similar range of benefits.

This schema provides a better explanation of how a Fair Tax might work on these levels, while also providing a rationale for adjusting government employee salaries and providing for non-governmental performance of services through the same type of alternative S–VAT programs.

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 One—Tax Reform, Center for Fiscal Equity, December 7, 2021

Individual payroll taxes. Employee payroll tax of 7.2% for Old-Age and Survivors Insurance. Funds now collected as a matching premium to a consumption tax based contribution credited at an equal dollar rate for all workers qualified within a quarter. An employer-paid subtraction value-added tax would be used if offsets to private accounts are included. Without such accounts, the invoice value added tax would collect these funds. No payroll tax would be collected from employees if all contributions are credited on an equal dollar basis. If employee taxes are retained, the ceiling would be lowered to $100,000 to reduce benefits paid to wealthier individuals and a $16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages. If a $10 minimum wage is passed, the employee contribution floor would increase to $20,000.

Wage Surtaxes. Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of $100,000 per year, will range from 7.2% to 57.6%. 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.

Our proposed brackets have been increased from $85,000 to $100,000 because this is the income level at the top of the 80% of tax paying households who earn the bottom third of adjusted gross income. Earners above this level are considered middle class. Likewise, the top 1% of income earners are at the $500,000 level, which will be used as the start of the highest rate.

Asset Value-Added Tax (A–VAT). A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, 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 income or S–VAT surtaxes.

This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 23.8% rate (including ACA–SM surtax) and the Democratic 28.8% rate as proposed in the Build Back Better Act. It's time to quit playing football with tax rates to attract side bets. A single rate also stops gaming forms of ownership. Lower rates are not as regressive as they seem. Only the wealthy have capital gains in any significant amount. The de facto rate for everyone else is zero. For now, however, a 28.8% rate is assumed if reform is enacted by a Democratic majority in both Houses.

Subtraction Value-Added Tax (S–VAT). These are employer paid Net Business Receipts Taxes. 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.

The S–VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S–VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S–VAT could replace income 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 also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A–VAT and I–VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

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 19.5% to 13%).

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. Adoption of S–VAT and I–VAT will replace pass-through and proprietary business and corporate income taxes.

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 (including fusion). 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.

Tax Reform Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of $35,000 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions—starting at 7.2%, going up to 28.8%, in $50,000 brackets.

2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and include sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. Employers distribute the child tax credit with wages as an offset to their quarterly tax filing (ending annual filings).
4. Employers collect and pay lower tier income taxes, starting at $100,000 at 7.2%, with an increase to 14.4% for all salary payments over $150,000 going up 7.2% for every $50,000 up to $250,000.
5. Shift payment of HI, DI, SM (ACA) payroll taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
6. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
7. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
8. Change employee OASI of 7.2% from $18,000 ($20,000 for $10 minimum wage) to $100,000 income are optional taxes for Old-Age and Survivors Insurance.

Attachment Two—Tax Administration, Treasury Budget, February 12, 2020

Shifting to a single system for all business taxation, particularly enacting invoice value-added taxes to collect revenue and employer-based subtraction value-added taxes to distribute benefits to workers will end the need for filing for most, if not all, households. Any remaining high salary surtax would be free of any deductions and credits and could as easily be collected by enacting higher tiers to a subtraction VAT.

Subtraction VAT collection will closely duplicate the collection of payroll and income taxes—as well as employment taxes—but without households having to file an annual reconciliation except to verify the number of dependents receiving benefits.

Tax reform will simplify tax administration on all levels. Firms will submit electronic receipts for I–VAT and Carbon Added Tax (C–AT) credit, leaving a compliance trail. S–VAT payments to providers, wages and child credits to verify that what is paid and what is claimed match and that children are not double credited from separate employers.

A–VAT transactions are recorded by brokers, employers for option exercise and closing agents for real property. With ADP, reporting burdens are equal to those in any VAT system for I–VAT and A–VAT and current payroll and income tax reporting by employers.

Employees with children will annually verify information provided by employers and IRS, responding by a postcard if reports do not match, triggering collection actions. The cliché will thus be made real.

High salary employees who use corporations to reduce salary surtax and pay I–VAT and S–VAT for personal staff. Distributions from such corporations to owners are considered salary, not dividends.

Transaction-based A–VAT payments end the complexity and tax avoidance experienced with income tax collection. Tax units with income under $84,000 or only one employer need not file high salary surtax returns. Separate gift and inheritance tax returns will no longer be required.

State governments will collect federal and state I–VAT, C–AT, S–VAT payments, audit collection systems, real property A–VAT and conduct enforcement actions. IRS collects individual payroll and salary surtax payments, performs electronic data matching and receive payments and ADP data from states. SEC collects A–VAT receipts.

I–VAT gives all citizens the responsibility to fund the government. C–AT invoices encourage lower carbon consumption, mass transit, research and infrastructure development. A–VAT taxation will slow market volatility and encourage employee ownership, while preserving family businesses and farms. Very little IRS Administration will be required once reform is fully implemented. All IRS employees could fit in a bathtub with room for Grover Norquist.

COLORADO NONPROFIT ASSOCIATION
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Dear Senate Finance Committee Members:

Thank you for all your work to support Coloradans and Americans throughout the pandemic, In advance of the upcoming hearing, I write on behalf of Colorado Nonprofit Association and its 1,100 nonprofit members to update you on the challenges that nonprofits in Colorado face and the continued need for relief and support.

Background

Because of the ongoing public health and economic crises, too many nonprofits in our state face increased demand for services, decreased revenue and increased expenses, and employee and volunteer shortages. This letter outlines those challenges and policy recommendations for the committee.

Nonprofits Experienced Substantial Job Losses and Face Slow Job Recovery

Before the pandemic, Colorado's nonprofits represented 5% of the state's private workforce, employed nearly 190,000 Coloradans, and contributed $40 billion of impact to Colorado's economy.[1] While current employment and economic impact data for Colorado's nonprofits are not available, national trends indicate that nonprofits experienced substantial job losses in 2020 due to the pandemic and face a slower pace of job recovery than the private sector.

Recent studies on the impact of the pandemic on the nonprofit sector indicated the following:

- 40% reported reduced staffing levels per a 2021 Federal Reserve survey.[2]
- 13% of jobs, or 1.64 million jobs, lost by May of 2020.[3] This means 25,000 Colorado nonprofit employees if job losses are presumed consistent with national data.
- 337,500 job vacancies still remain as of February 2022.[4] 5,000 of which are vacancies for Colorado's nonprofits if job losses are presumed consistent with national data.
- The nonprofit sector has recovered 79% of jobs lost during the pandemic, which lags behind the total U.S. job recovery rate of 87%.[5, 6]
- 60% of nonprofits have vacancies between 10% and 30%. 16% have vacancies greater than 30% according to a December 2021 National Council of Nonprofits survey. Respondents cited salary competition (79%) and lack of child care as contributing to workforce shortages (23%).[7]

Charitable Giving Is Down on Federal Returns and up on State Returns

Our review of available national data indicates that charitable giving is not keeping pace with needs and rising expenses:

- 0.8% decrease in giving between 2019 and 2020 if one major donor's contributions are removed from the 2021 Giving USA study.[8]
- 42% of nonprofits with budgets under $500,000 and 29% with budgets over $500,000 experienced reduced donations in 2020 per the Urban Institute.[9]
- Nonprofits stating that donations are essential to their revenue stream were more likely to experience reduced donations in 2020 per the Urban Institute.[10]

Fewer Coloradans took the federal charitable deduction and deducted less giving leading up to the pandemic:

- The number of Coloradans taking this deduction fell from 657,300 to 278,050.[11]

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[1] *http://www.cononprofitimpact.org/.*
[2] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*
[3] *http://ccss.jhu.edu/research-projects/nonprofit-economic-data/covid-nonprofit-employment/.*
[4] *Ibid.*
[5] *Ibid.*
[6] *https://www.denverpost.com/2022/03/14/colorado-employment-jobs-pre-pandemic-levels/.*
[7] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*
[8] *www.givinginstitute.org/resource/resmgr/gusa/2021_resources/gusa_2021_press_release_fina.pdf.*
[9] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*
[10] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*
[11] *https://www.irs.gov/statistics/soi-tax-stats-historic-table-2* for CO, 2017–2019.

- Total giving fell from over $4.5 billion in 2017 to $3.5 billion in 2019.[12]

More Coloradans took the state charitable deduction and deducted more giving following passage of the Tax Cuts and Jobs Act:

- The number of Coloradans taking the state deduction increased from 153,000 in 2017 to 362,000 in 2018.[13]
- Giving on state returns increased by from $247.6 million in 2017 to nearly $821.7 million in 2018.[14]

Without the state deduction, declines in the number of donors and in overall charitable giving reported on Colorado tax returns would have been much greater.

The Pandemic Negatively Impacts Volunteerism Rates in Colorado

Before the pandemic, more than 32% of Coloradans volunteered and contributed over 121 million hours of service.[15] Nationally, the Urban Institute reports that regular volunteers declined by 23% in urban areas and 41% in rural areas in 2020.[16] Although many businesses are fully open to the public again, we remain concerned that many nonprofits have not seen volunteerism return to pre-pandemic levels. Lack of access to child care, increased COVID–19 risks for adults with vulnerabilities, and increased mental health concerns still contribute to reduced numbers of volunteers.

Many Nonprofits Benefited From Pandemic Relief; Many Did Not

Although some nonprofits benefitted from federal and state COVID–19 relief funds, most relief programs have been primarily targeted to specific industries or for-profit businesses generally. Our observations regarding pandemic-relief programs are the following:

- Over 5,600 Colorado nonprofits received nearly $900 million in forgiven PPP, which saved nearly 115,000 nonprofit jobs. However, our review of the data indicates that nonprofits received only 3% of the more than 192,000 PPP loans completed and 7% of the dollars loaned ($1.04 billion out of $15.06 billion).[17]
- Volunteer-run nonprofits and nonprofits with more than 500 employees typically did not qualify for assistance through PPP. The requirement to demonstrate 25% revenue losses for PPP Second Draw loans also left out nonprofits impacted more by increased demand rather than revenue losses.
- Governor Polis' COVID–19 relief fund provided $24 million of assistance to nonprofits but this program expired at the end of 2020.[18]
- Colorado's nonprofits tended to not use federal or state loan programs without any opportunity for forgiveness (*e.g.,* Main Street Lending Program, CLIMBER loan fund, et al.). Most nonprofits prefer not to divert future funding from programs to pay debt.

Colorado Nonprofit Association is asking the Colorado General Assembly to allocate between $25 million and $50 million of American Rescue Plan Act (ARPA) funds for grants to support nonprofits' essential work. ARPA and Treasury regulations make it clear that governments may use these funds in partnership with charitable nonprofits to address many challenges in our communities. This is a small but meaningful percentage of the $5.8 billion allocated to Colorado's governments through the Coronavirus Fiscal Recovery Fund.[19]

Recommendations for the Senate Finance Committee

As long-term recovery from the pandemic is still fragile, the Senate Finance Committee can take several actions to support Colorado's nonprofits in the short and long-term.

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[12] *https://www.irs.gov/statistics/soi-tax-stats-historic-table-2* for CO, 2017–2019.

[13] *https://cdor.colorado.gov/data-and-reports/statistics-of-income-reports,* table 25, 2017 and 2018.

[14] *https://cdor.colorado.gov/data-and-reports/statistics-of-income-reports,* table 25, 2017 and 2018.

[15] *https://americorps.gov/sites/default/files/document/Volunteering_in_America_States_508.pdf.*

[16] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report,* p. 38–39.

[17] *https://www.pandemicoversight.gov/data-interactive-tools/interactive-dashboards/paycheck-protection-program.*

[18] *https://helpcoloradonow.com/covid_relief-fund/.*

[19] *https://www.councilofnonprofits.org/trends-policy-issues/strengthening-state-and-local-economies-partnership-nonprofits.*

- **Restore the Employee Retention Tax Credit (ERTC) from the fourth quarter of 2021 through the end of 2022 (S. 3625).** Colorado Nonprofit Association joined more than 1,500 organizations from all 50 states in signing onto the recent letter to Congress and the Biden Administration seeking pandemic relief for charitable nonprofits. Restoring the ERTC would help address nonprofit workforce shortages especially if the "gross receipts" test is modified so more nonprofits can qualify. We also recommend adding child care and education subsidies as eligible expenses. Unlike for-profits, nonprofits cannot receive income tax relief from these costs.
- **Continue and expand the charitable giving incentives enacted during the pandemic, including the universal charitable deduction for non-itemizers.** Even though the pandemic continues to increase demand for nonprofits' services, several disaster-related giving incentives expired at the end of 2021. Colorado Nonprofit Association unequivocally supports renewal of the universal charitable deduction at least through 2022 and expansion through Universal Giving Pandemic Response and Recovery Act (S. 618). Passing this act will promote further giving by all American taxpayers of all incomes and generate needed resources for charitable and faith-based organizations to continue serving communities impacted by the pandemic.

We also ask that you speak up during the hearing in support of extending expired disaster-relief incentive. This includes allowing itemizers to deduct charitable donations up to 100% of their adjusted gross income and allowing corporations to deduct charitable donations up to 25% of taxable income.

- **Protect levels of ARPA funding allocated to state and local governments.** These funds will also help Colorado's governments and nonprofits meet the needs of our communities.
- **Incentivize volunteerism by addressing unfair tax treatment of volunteer mileage.** We ask for the volunteer mileage rate to be the same as the business rate (currently, 58.5 cents per mile) and for elimination of the tax on mileage reimbursements up to the business rate. The rapid increase in gas prices mean increased expenses for nonprofits reimbursing their volunteer drivers and increased expenses and income taxes for those drivers.[20] The volunteer mileage rate (14 cents per mile) disincentivizes many Americans from being regular volunteer drivers.
- **Champion the Nonprofit Sector Strength and Partnership Act of 2022.** This draft bill, sponsored by Congresswoman McCollum, would formalize and bolster the ability of the federal government to work in partnership with the nonprofit sector. Arguably, this is the most important way that Congress could enhance the mission-driven work of the nonprofit sector. However, we recognize that some effort would be needed to implement this bill and change this relationship between nonprofits and government.

Conclusion

As you consider the issues raised during the Senate Finance Committee hearing, we ask that you reflect on the important, sustaining work that Colorado's nonprofits performed throughout the pandemic. Nonprofits continue to face increasing demand for services with decreasing human and financial resources. In light of these unrelenting challenges, we ask that you consider these policy solutions and others that will strengthen the ability of nonprofits to meet the needs of Coloradans.

Sincerely,

Mark Turner
Senior Director of Public Policy

COMMUNITY FOUNDATION PUBLIC AWARENESS INITIATIVE

Today's Finance Committee hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector," is exploring current incentives for charitable giving and whether they can be designed more effectively, to motivate giving from more taxpayers across the income distribution at the lowest possible revenue cost. Community foundations are generally supportive of tax law changes, such as the Universal Giving Pandemic Response Act (*i.e.,* the Lankford-Coons bill), that would expand the

[20] *https://www.9news.com/article/news/local/nonprofits-service-organizations-gas-prices/73-fb4e061d-40e8-4858-97a4-007073250922.*

number of taxpayers receiving a tax incentive for their giving. We appreciate the Lankford-Coons bill was introduced with changes suggested by community foundations, such as making donor-advised funds (DAFs) eligible for charitable gifts under the Act.

We want to offer brief testimony today on one issue which affects all community foundations to varying degrees: the inability of donors to use a DAF for IRA Charitable Rollover (Qualifying Charitable Distribution) gifts under Section 408(d)(8). This seemingly small provision impacts many of our donors every year, and has the opposite impact in practice than was intended. It keeps more money locked up, rather than getting it out into the community; it reduces the ability of donors to support the charities of their choice; and it makes it harder for IRA rollover gifts to get to smaller charities that have had a harder time raising money after the 2017 tax reform law and the COVID–19 pandemic.

As the Finance Committee knows, the Pension Protection Act of 2006 (PPA) defined DAFs for the first time and included a set of reforms at the urging of then-Chairman Grassley and his staff. Since the PPA, for example, a donor cannot use a DAF to direct gifts to individuals, private foundations, or non-charitable purposes. A donor cannot recommend a gift that provides more than an incidental benefit to the donor-advisor. And most closely held business interests in a DAF must be sold within five years. As community foundation leaders, we support all these reforms.

The IRA Charitable Rollover was created by the PPA. Because the above reforms had not yet taken effect, the PPA said a taxpayer could not use the rollover for a gift to a DAF. A donor can use the rollover to give to a university endowment, where the money almost certainly isn't immediately utilized, or to the endowment of a local hospital or art museum—but they can't address a community's needs by contributing to a DAF at the local community foundation. Also, and most important, because most users of the rollover pick a single charity for their gift, the opportunity to donate to multiple local charities through a single gift transaction is lost.

This exclusion inhibits community foundations from helping our donors efficiently get money to local nonprofits they support. Because DAF payout rates are substantial, the prohibition on DAFs doesn't promote greater giving. Instead, the DAF prohibition restricts donor flexibility by (1) codifying a preference of some charities over others, and (2) making it difficult for a donor to be broad-based in their giving.

Here is what happens every year at community foundations across the country. A donor comes in and wants to direct a Qualifying Charitable Distribution into a DAF, and we tell them it's not allowed. This frustrates the donors, who don't understand the restriction. After this initial disappointment, one of three things happens:

1. The community foundation attempts a workaround, in which a donor makes their rollover gift directly to the foundation, either to an unrestricted fund or field-of-interest fund (where donors can't recommend specific charities) or a fund like a designated fund (where donors can recommend specific charities, but only a portion of the funds may be granted out each year);
2. The donor will go to another 501(c)3 charity for their gift, but more likely than not, it will be a single, large charity which could put the gift into their own endowment (*i.e.,* it won't get spent immediately to address immediate community needs); or
3. The donor becomes discouraged and doesn't make a charitable gift.

None of these outcomes are optimal for charitable giving. Therefore, our partnership of community foundations, representing nearly 150 foundations of all sizes in 47 states, has been leading an effort to help Members of Congress understand how the DAF exclusion hurts their constituents. Fixing this provision, either in tax or retirement legislation, will have negligible revenue impact, but it will have a positive charitable impact in communities across the country as donors learn that they can easily divide up their rollover gifts.

One of our participating CEOs, Roxie Jerde of the Community Foundation of Sarasota County, offers the following observations:

> The Sarasota Community is heavily populated with middle-class retirees who engage in philanthropic grantmaking. Most of our donors are in their 70s and utilize the IRA charitable rollover (QCD) in their annual giving. Our donors regularly make grants in $100, $500, and $1,000 increments to 30–40 organizations each year. IRA custodians do not want to cut QCD

> checks in these increments for this volume of giving. Donors are confused when they are told they cannot distribute the QCD into their DAF to make these grants. Further, our donors want to support grassroots organizations benefiting under-represented communities, but they want the oversight offered by our foundation concerning the use and impact of grant dollars. They get this oversight by granting through their DAFs. We have seen donors revert to granting to long-term institutional organizations when told they cannot grant their QCDs into their DAFs, thus causing grassroots organizations to suffer.

One of the recent trends in charitable giving, which today's hearing reinforces, is how the 2017 tax law concentrated charitable giving incentives among higher-income people, who tend to give large gifts to big institutions. But what about the smaller organizations that may benefit from $250, $500, or $1,000 gifts, such as the ones Roxie Jerde is referencing? People are not going to give their entire Required Minimum Distribution (RMD) from their IRA to the small charity. The best tool for this small-dollar giving is the donor-advised fund: Let the taxpayer put their RMD in their DAF, and then recommend grants as they wish to as many charities as they choose. It makes giving easier—and when giving is easy, people give more.

The key takeaway is this: **Whether someone uses the Rollover to make one $30,000 gift, ten $3,000 gifts, or thirty $1,000 gifts, the federal tax implications are the same.** Why not let donors have the flexibility to make their own choices? Why not make it easy for them to give to multiple charities?

The IRA Rollover fix has broad support in the charitable field, including the Council on Foundations, the Alliance for Charitable Reform (Philanthropy Roundtable), National Philanthropic Trust, Jewish Federations of North America, United Way, and other leading charitable groups. Removing the prohibition will help promote community philanthropy at a time the charitable sector is being asked to do more—and it will make the rollover work better because it will allow people to use the rollover to get gifts to smaller charities.

There are some advocates who have recently expressed concerns over the growth of DAFs as a popular philanthropic vehicle. We believe DAFs are flexible tools that promote philanthropy, and that the critics are misguided. But we can't stress enough that the issues sometimes raised in the DAF context—assertions about inactive funds, how high-net-worth people use DAFs, tax treatment of complex assets, etc.—*these issues simply do not come up in the IRA rollover context.* Qualifying Charitable Distributions are limited to taxpayers aged over 70½; limited to $100,000 per year; and because the money is coming directly from an IRA (*i.e.,* marketable securities), complex assets like real estate and closely held business stock aren't an issue. *Billionaires aren't using the rollover; middle-class Americans are.*

Our donors want to get money out the door, and they want to get money to smaller charities. The donor-advised fund is the most effective tool to do that. Fixing the IRA charitable rollover by eliminating the DAF prohibition would be a way to incentivize charitable giving and get more money to small, local charities at very modest revenue cost.

Thank you for your attention to our concerns.

CFPAI Participating Foundations (March 2022)

Alabama

Christopher Nanni, Community Foundation of Greater Birmingham, Birmingham.

Arizona

Steve Seleznow, Arizona Community Foundation, Phoenix.
Jenny Flynn, Community Foundation for Southern Arizona, Tucson.

Arkansas

Heather Larkin, Arkansas Community Foundation, Little Rock.

California

Ashley Swearengin, Central Valley Community Foundation, Fresno.
Dan Baldwin, Community Foundation for Monterey County, Monterey.
Sheryl Alexander, Community Foundation Sonoma County, Santa Rosa.
Pam Calloway, East Bay Community Foundation, Oakland.
Kristen Beall, Kern Community Foundation, Bakersfield.

Rhea Suh, Marin Community Foundation, Novato.
Shelly Hoss, Orange County Community Foundation, Newport Beach.
Jennifer Fleming DeVoll, Pasadena Community Foundation, Pasadena.
Linda Beech Cutler, Sacramento Region Community Foundation, Sacramento.
Mark Stuart, San Diego Area Foundation, San Diego.
Nicole Taylor, Silicon Valley Community Foundation, Mountain View.

Colorado

Tatiana Hernandez, Community Foundation Boulder County, Boulder.
Javier Soto, Denver Foundation, Denver.
Gary Butterworth, Pikes Peak Community Foundation, Colorado Springs.

Connecticut

William Ginsberg, Community Foundation for Greater New Haven, New Haven.
Juanita James, Fairfield County's Community Foundation, Norwalk.

Delaware

Stuart Comstock-Gay, Delaware Community Foundation, Wilmington.

District of Columbia

Tonia Wellons, Greater Washington Community Foundation, Washington, DC

Florida

Mark Brewer, Central Florida Foundation, Orlando.
Sarah Owen, Collaboratory (formerly Southwest Florida Community Foundation), Fort Myers.
Theresa Grimison, Community Foundation for Brevard, Melbourne.
Jennifer O'Flannery Anderson, Community Foundation of Broward, Ft. Lauderdale.
Eileen Connolly-Keesler, Community Foundation of Collier County, Naples.
Barzella Papa, Community Foundation of North Central Florida, Gainesville.
Katrina Rolle, Community Foundation of North Florida, Tallahassee.
Nina Waters, Community Foundation for Northeast Florida, Jacksonville.
Danita Dias, Community Foundation for Palm Beach and Martin Counties, West Palm Beach.
Roxie Jerde, Community Foundation of Sarasota County, Sarasota.
Marlene Spalten, Community Foundation of Tampa Bay, Tampa.
John Attaway, GiveWell Community Foundation, Lakeland and Winter Haven.
Mark Pritchett, Gulf Coast Community Foundation, Sarasota.
Jeffrey Pickering, Indian River Community Foundation, Vero Beach.
Rebecca Fishman Lipsey, Miami Foundation, Miami.
Duggan Cooley, Pinellas Community Foundation, Largo.

Georgia

Kathryn Dennis, Community Foundation of Central Georgia, Macon.
Betsy Covington, Community Foundation of the Chattahoochee Valley, Columbus.
Frank Fernandez, Community Foundation for Greater Atlanta, Atlanta.
Randy Redner, Community Foundation of Northeast Georgia, Duluth.
David Carlton, Community Foundation of South Georgia, Thomasville.

Hawaii

Micah Kane, Hawaii Community Foundation, Honolulu.

Idaho

Steve Burns, Idaho Community Foundation, Boise.

Illinois

Helene Gayle, Chicago Community Trust, Chicago.

Indiana

Brian Payne, Central Indiana Community Foundation, Indianapolis.
Rose Meissner, Community Foundation of St. Joseph County, South Bend.
Stephanie Overbey, Kosciusko County Community Foundation, Warsaw.
Tom Kilian, Hamilton County Community Foundation, Fishers.

Iowa

Kristi Knous, Community Foundation of Greater Des Moines, Des Moines.
Les Garner, Greater Cedar Rapids Community Foundation, Cedar Rapids.
Randy Moore, Quad Cities Community Foundation, Bettendorf.

Kansas

Shelly Prichard, Wichita Community Foundation, Wichita.

Louisiana

Chris Meyer, Baton Rouge Area Foundation, Baton Rouge.
Raymond Hebert, Community Foundation of Acadiana, Lafayette.
Andy Kopplin, Greater New Orleans Foundation, New Orleans.

Maryland

Shanaysha Sauls, Baltimore Community Foundation, Baltimore.

Massachusetts

Peter Taylor, Berkshire-Taconic Community Foundation, Great Barrington.
Lee Pelton, Boston Foundation, Boston.
Katie Zobel, Community Foundation of Western Massachusetts, Springfield.
Beth Francis, Essex County Community Foundation, Danvers.
Carolyn Stempler, Greater Worcester Community Foundation, Worcester.
Kim Heard, SouthCoast Community Foundation, New Bedford.

Michigan

Mariam Noland, Community Foundation for Southeast Michigan, Detroit.
Isaiah Oliver, Greater Flint Community Foundation, Flint.
Carrie Pickett-Erway, Kalamazoo Community Foundation, Kalamazoo.

Minnesota

R.T. Rybak, Minneapolis Foundation, Minneapolis.
Eric Jolly, Minnesota Philanthropy Partners (St. Paul Foundation and Minnesota Community Foundation), St. Paul.

Mississippi

Jane Alexander, Community Foundation for Mississippi, Jackson.

Missouri

Brian Fogle, Community Foundation of the Ozarks, Springfield.
Debbie Wilkerson, Greater Kansas City Community Foundation, Kansas City.
Amelia Bond, Greater St. Louis Community Foundation, St. Louis.

Montana

Mary Rutherford, Montana Community Foundation.

Nebraska

Donna Kush, Omaha Community Foundation, Omaha.

Nevada

Gian Brosco, Nevada Community Foundation, Las Vegas.
Claudia Andersen, Parasol Tahoe Community Foundation, Incline Village.

New Hampshire

Richard Ober, New Hampshire Charitable Foundation, Concord.

New Jersey

Hans Dekker, New Jersey Community Foundation, Morristown.

New Mexico

Sue Colliton, Santa Fe Community Foundation, Santa Fe.

New York

Cali Brooks, Adirondack Foundation, Lake Placid.
Clotilde Dedecker, Community Foundation for Greater Buffalo, Buffalo.
John Eberle, Community Foundation for the Greater Capital Region, Albany.
Sally Cross, Community Foundations of the Hudson Valley, Kingston and Poughkeepsie.
Peter Dunn, Central New York Community Foundation, Syracuse.
Lorie Slutsky, New York Community Trust, New York City.
Jennifer Leonard, Rochester Area Community Foundation, Rochester.

North Carolina

Elizabeth Brazas, Community Foundation of Western North Carolina, Asheville.
Michael Marsicano, Foundation for the Carolinas, Charlotte.
Jennifer Tolle Whiteside, North Carolina Community Foundation, Raleigh.
Lori O'Keefe, Triangle Community Foundation, Durham.
LaTida Smith, Winston-Salem Foundation, Winston-Salem.

North Dakota

Eric Wilkie, FM Area Foundation, Fargo.

Ohio

John Petures, Akron Community Foundation, Akron.
Ronald Richard, Cleveland Foundation, Cleveland.
Douglas Kridler, Columbus Foundation, Columbus.
Cynthia Andrews, Community Foundation Lorain County, Elyria.
Mike Parks, Dayton Foundation, Dayton.
Ellen Katz, Greater Cincinnati Foundation, Cincinnati.
Keith Burwell, Toledo Community Foundation, Toledo.

Oklahoma

Nancy Anthony, Oklahoma City Community Foundation, Oklahoma City.
Phil Lakin, Tulsa Community Foundation, Tulsa.

Oregon

Max Williams, Oregon Community Foundation, Portland.

Pennsylvania

McCrae Martino, Community Foundation of Westmoreland County, Greensburg.
Frances Sheehan, Foundation for Delaware County, Media.
Karen Bilowith, Erie Community Foundation, Erie.
Sam Bressi, Lancaster County Community Foundation, Lancaster.
David Pedri, Luzerne Foundation, Luzerne.
Pedro Ramos, Philadelphia Foundation, Philadelphia.
Lisa Schroeder, Pittsburgh Foundation, Pittsburgh.

Rhode Island

Neil Steinberg, Rhode Island Foundation, Providence.

South Carolina

JoAnn Turnquist, Central Carolina Community Foundation, Columbia.
Darrin Goss, Coastal Community Foundation, North Charleston.

South Dakota

Stephanie Judson, South Dakota Community Foundation, Pierre.

Tennessee

Robert Fockler, Community Foundation of Greater Memphis, Memphis.
Michael McClamroch, East Tennessee Foundation, Knoxville.

Texas

Mike Nellis, Austin Community Foundation, Austin.
David Scullin, Communities Foundation of Texas, Dallas.
Katie Alford, Community Foundation of Abilene, Abilene.
Matthew Randazzo, Dallas Foundation, Dallas.
Kyle Penney, East Texas Communities Foundation, Tyler.
Stephen Maislin, Greater Houston Community Foundation, Houston.
Rose Bradshaw, North Texas Community Foundation, Fort Worth.
Guy McCrary, Permian Basin Area Foundation, Midland.
Matt Lewis, San Angelo Area Foundation, San Angelo.
Marjie French, San Antonio Area Foundation, San Antonio.
Ashley Allison, Waco Foundation, Waco.

Utah

Alex Eaton, Community Foundation of Utah, Salt Lake City.

Vermont

Dan Smith, Vermont Community Foundation, Middlebury.

Virginia

Heather Peeler, ACT for Alexandria, Alexandria.
Jennifer Owens, Arlington Community Foundation, Arlington.
Eileen Ellsworth, Community Foundation for Northern Virginia, Oakton.
Debbie DiCroce, Hampton Roads Community Foundation, Norfolk.

Washington

Beth Stipe, Community Foundation of North Central Washington, Wenatchee.
Shelly O'Quinn, Innovia Foundation, Spokane.
David Bley, Seattle Foundation, Seattle.

Mauri Ingram, Whatcom Community Foundation, Bellingham.

West Virginia

Susie Nelson, Community Foundation of the Ohio Valley, Wheeling.

Wisconsin

Curt Detjen, Community Foundation for the Fox Valley Region, Appleton.
Sue Bornick, Eau Claire Community Foundation, Eau Claire.
Ellen Gilligan, Greater Milwaukee Foundation, Milwaukee.
Jamie Schloegel, La Crosse Community Foundation, La Crosse.
Liz Powell, Racine Community Foundation, Racine.

Wyoming

Craig Showalter, Wyoming Community Foundation, Laramie.

COUNCIL FOR ADVANCEMENT AND SUPPORT OF EDUCATION
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https://www.case.org/

The Council for Advancement and Support of Education thanks Chairman Wyden, Ranking Member Crapo, and committee members for this opportunity to share our comments on charitable giving and trends facing educational institutions, a major subsector of the overall nonprofit sector in the United States. CASE strongly supports the renewal and expansion of a universal charitable deduction to improve the American tax system and encourage all Americans, regardless of income, to make charitable gifts to colleges, universities, independent schools, and other charitable organizations.

CASE is the global association for professionals in advancement—alumni relations, communications, fundraising, marketing, and advancement services—who share the goal of championing education to transform lives and society. Advancement professionals are critical to securing philanthropic support that solves institutional challenges and help colleges, universities, and independent schools achieve their teaching, research, and public service missions. CASE's membership includes approximately 3,100 colleges and universities, primary and secondary independent and international schools, and nonprofit organizations in 80 countries around the world, with more than 2,800 of our member institutions located in the United States.

Charitable donations help colleges, universities, and independent K–12 schools achieve their teaching, research, and public service missions. According to our most recent Voluntary Support of Education survey, donors generously contributed $52.9 billion to U.S. colleges and universities in the fiscal year that ended June 20, 2021, up from $49.5 billion in the previous fiscal year. This 6.9% increase in giving was buoyed largely by donations to restricted endowments, which often fund scholarships. Support over the last two years in particular targeted immediate needs for students and in communities as institutions worked to serve the public in a variety of vital ways during the pandemic. Donations help educational institutions fund scholarships and other aid for low-income students, advance ground-breaking research, and strengthen academic programs and faculty retention. Private support raised from individuals is an essential funding source for both private and public colleges and universities and private independent schools.

Donors make charitable gifts to educational institutions in a variety of ways, often restricting how their gifts are used. Some make gifts to support an institution's current operations through the annual fund. Other donors, typically major donors, create endowed funds that provide a steady and reliable support long-term funding source in support of students, teaching, research, and other programs that would otherwise have to be paid for by tuition or other funding. And still others make planned gifts, gifts that allow an individual to make a larger gift from their lifetime income or estate that benefit the institution. All of these gifts are critical in helping educational institutions achieve their missions to the benefit of society.

We encourage the committee to consider the following proposals to help incentivize additional giving to educational institutions.

Renew and Expand the Charitable Deduction for Nonitemizers

CASE is a strong supporter of providing a charitable giving incentive to all Americans. The charitable deduction is unique in that it encourages individuals to give away a portion of their income for the public good. U.S. tax policy should encourage all Americans, regardless of income, to make donations to educational institutions and other charitable organizations.

We were very pleased that Congress enacted a modest, temporary charitable deduction for nonitemizers, also known as a universal charitable deduction, as part of pandemic relief legislation. This provision, which allowed non-itemizing taxpayers to deduct cash gifts of up to $300 for individuals ($600 for joint filers), was a good first step in encouraging the nearly 90 percent of American taxpayers who do not itemize to donate more to charity. Colleges, universities, and independent schools communicated the availability of the universal deduction to their students, faculty, alumni, and other key supporters.

Unfortunately, the temporary universal charitable deduction expired on December 31, 2021, leaving a majority of American taxpayers without a charitable giving incentive. Educational institutions have had to cease discussing this opportunity with donors given the uncertainty around whether the provision will be renewed and extended.

CASE strongly supports the Universal Giving Pandemic Response and Recovery Act (S. 618), which would renew the universal charitable deduction and increase the cap to one third of the standard deduction ($4,000 for individuals, $8,000 for joint filers). We are grateful for the bipartisan leadership and support of Senators Lankford, Coons, Collins, Cortez Masto, Klobuchar, Lee, Shaheen, Scott, and other cosponsors, including Senators Brown, Hassan, and Stabenow on the Finance Committee, in moving this measure forward. We urge the committee and Congress to move quickly to renew and expand the universal charitable deduction so that all American taxpayers are incentivized to give more to educational institutions and other charitable organizations.

Avoid Caps, Floors and Other Proposals that Limit the Value of the Charitable Deduction

We also encourage the committee to avoid enacting other limitations on the charitable deduction that would discourage giving to educational institutions. Donors already face limits on the charitable contributions. A donor's deduction for charitable contributions cannot exceed more than 50 percent of the donor's Adjusted Gross Income (AGI). The limits are even more stringent—contributions cannot exceed more than 30 percent of a donor's AGI—for gifts made to private non-operating foundations and some gifts of capital gain property. Donors can carryover amounts in excess of the limits for up to five years, and many do carryover large gifts.

Proposals that directly limit the value of the charitable deduction, such as capping the value of the charitable deduction at 28 percent for high-income donors, reduce the incentive for donors to give additional dollars to educational institutions and other charitable organizations. Donors who give little or nothing to charity would be unaffected by such a cap. Instead, such a proposal would target the most generous high-income donors, individuals and families who want to make large gifts to educational institutions or other charitable organizations. Why would Congress want to penalize individuals who want to give more of their wealth away to benefit the public good?

Unfortunately, some have mislabeled the charitable deduction as a tax break for the wealthy. As Chairman Wyden has said on many occasions, "the charitable deduction is a lifeline, not a loophole." Limiting the charitable deduction would not hurt high-income donors, many of whom would likely decide to give less if a cap or other limit was enacted. Students and others served by educational institutions and charitable organizations would ultimately be hurt by limits to the charitable deduction.

The committee should also avoid enacting other limits on the deduction, including floors. A floor on charitable donations, such as a percentage of AGI floor, could disproportionately impact giving by low- and middle-income donors. Gifts by these donors make a tremendous difference for our institutions, particularly in supporting general operations. And many of today's low- and middle-income donors will make larger gifts as they progress through their careers.

Expand the IRA Charitable Rollover to Life Income Gifts

CASE has been a long-time supporter of the current law IRA charitable rollover, a provision in the tax code that allows taxpayers age 70½ and older to distribute up to $100,000 annually from their individual retirement accounts (IRAs) to eligible charitable organizations, including colleges, universities, and independent schools, without having to count those distributions as income. This provision has generated significant new giving from seniors who want to use their IRA funds to support educational institutions.

The committee can encourage additional giving by supporting the bipartisan Legacy IRA Act (S. 243), legislation that would expand the current IRA charitable rollover by allowing individuals age 65 and older to direct up to $400,000 annually from their IRAs to educational institutions through split-interest entities such as charitable gift annuities and charitable remainder trusts. The Legacy IRA Act will allow more seniors to benefit from the IRA charitable rollover and will help colleges, universities, and independent schools raise additional funds to support their missions. We applaud Senators Stabenow (D–MI) and Cramer (R–ND) and other cosponsors including Senators Cornyn and Daines on the Finance Committee, for their leadership on the Legacy IRA Act.

Eliminate the Net Investment Income Excise Tax on Private Colleges and Universities

Enacted as part of the Tax Cuts and Jobs Act of 2017, the net investment income excise tax (also known as the "endowment tax") requires private colleges and universities with more than 500 tuition-paying students and endowment assets of at least $500,000 per student to pay a 1.4 percent tax on their net investment income. College and university endowments are collections of hundreds or thousands of charitable funds managed and invested to serve current and future needs. Endowments provide a steady and reliable long-term funding source in support of students, teaching, research, and other programs that would otherwise not exist, or have to be paid for by tuition or other funding sources.

Instead of bringing down college costs, the net investment income tax does the opposite. This tax redirects charitable funds away from their intended purposes and discourages donor generosity, making it more difficult for institutions to raise and manage endowed funds that are essential to supporting institutions as they work to offer high-quality, affordable, accessible education. We urge the committee to repeal this misguided tax.

We believe now, more than ever, education is the most effective away to advance humanity, maintain a civil society, enable the United States to return to its leadership role in the community of international scholarship and knowledge generation, and tackle myriad challenges that our world faces. Policies that encourage Americans to give generously to colleges, universities, and independent schools will be critical to helping our institutions meet this calling. We thank the committee for the opportunity to share our views and comments, and we look forward to working with you and your staff to identify additional ways to strengthen charitable giving.

COUNCIL ON FOUNDATIONS
1255 23rd St, NW, #200
Washington, DC 20037

Thank you for the opportunity to provide written testimony for the record on the subject of "Examining Charitable Giving and Trends in the Nonprofit Sector." We commend the committee for holding this hearing during a pivotal moment for nonprofits and their philanthropic partners.

The Council on Foundations is a nonprofit leadership organization of more than 800 grantmaking foundations and corporations. We work to build trust in philanthropy, expand pathways to giving, engage broader perspectives, and help create solutions that will lead to a better future for all.

A robust charitable sector is a core component of American society. Each year, philanthropy invests tens of billions of dollars in community organizations throughout the United States and around the world to advance the greater good. In 2020, charitable giving by individuals totaled more than $324 billion—the highest amount to date—and giving by foundations reached a high of $88.5 billion, according to a GivingUSA report.[1] In fact, total giving has grown consistently over the last 40 years, and the World Giving Index[2] recently named the U.S. the most generous country of the past decade. Our culture of giving has resulted in vital investments

[1] *https://givingusa.org/wp-content/uploads/2021/06/GUSA2021_Infographic_Digital.pdf.*
[2] *https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi_10th_edition_report_2712a_web_101019.pdf.*

that support nonprofit organizations, fuel innovation, fund critical research and projects, supply needed resources when disasters strike, and much more.

Unfortunately, multiple crises are facing our communities here at home and abroad, and demand for support and vital services has reached record levels. At the same time, nonprofits are struggling to keep their doors open because of workforce shortages, declines in volunteers, funding shortfalls, and the rising costs of goods.

When crisis hits, philanthropy and our charitable partners have demonstrated an unwavering commitment to swiftly act to serve our communities. But our support alone isn't enough. Foundations and their nonprofit partners need the government to enact policies that will enable them to provide the resources and support our communities so desperately need. Specifically, we encourage Congress to:

Expand and Extend Charitable Giving Incentives

The Council urges Congress to strengthen giving tools available to all Americans. Additional incentives for charitable giving will continue to make a difference as nonprofits respond to the needs in their communities. COVID relief legislation included a temporary $300 charitable deduction for nonitemizers, which likely contributed to the 28 percent increase in gifts of $300 on December 31, 2020 reported by the Fundraising Effectiveness Project.[3] With the share of non-wealthy Americans who donate shrinking, a universal charitable deduction is an incentive for all taxpayers, and not just the small number who itemize, to give. The Universal Giving Pandemic Response and Recovery Act (S. 618) would expand the charitable deduction for those who do not itemize—approximately 90 percent of taxpayers—up to one-third the standard deduction. It would also recognize gifts to donor-advised funds (DAFs).

In addition, as part of COVID relief legislation, Congress increased the adjusted gross income (AGI) limitation for individual cash gifts to public charities as well as the amount of charitable donations corporations can deduct. Unfortunately, gifts to DAFs and supporting organizations were excluded, limiting donors' flexibility just as charities need additional funding to keep their operations going. The Council urges Congress to extend the increased limits for individuals and corporations to ensure that all charitable vehicles, especially those that have long provided vital and flexible resources to their communities, are available to donors at this critical time.

The fallout from the pandemic is far from over, and as additional crises emerge, Congress must continue to incentivize giving to the charitable organizations doing the on-the-ground work of community, economic, and public health recovery. These incentives have the potential to unlock billions of dollars to flow to nonprofits and into communities that desperately need them.

Protect the Long-Term Flexibility of Donor-Advised Funds (DAFs)

DAFs are a crucial tool for the community foundations doing the day-to-day work of rebuilding. In times of crisis, DAFs have historically been the most resilient giving tool, continuing to make grants at relatively high levels even when recessions deflate other forms of charity. This flexibility has allowed community foundations and other DAF sponsors to step up in response to the COVID–19 crisis, with DAF grants to nonprofits surpassing $30 billion for the first time in 2020.

In addition, donor-advised funds play a vital role in democratizing philanthropy. They empower middle-income Americans to take control of their charitable giving, allowing them to plan out their philanthropy for the medium- and long-term while still giving sponsoring organizations the flexibility to respond to the emerging needs of their communities.

The pandemic has highlighted the ability of sponsoring organizations such as community foundations to respond to local crises as they emerge while continuing to address long-term needs. The Community Foundation for the Ohio Valley (CFOV), for example, has maintained its support for programs in rural Appalachia while also responding to new challenges related to the pandemic. In addition to continuing support for local nonprofits, providing personal protective equipment for volunteers and workers at children's and homeless shelters, and raising and deploying $300,000 to help with COVID-related food insecurity and mental health issues, CFOV employed an emergency fund to support after school programs and gaps in broadband. Simultaneously, CFOV developed partnerships with local organizations

[3] *https://afpglobal.org/fundraising-effectiveness-project-giving-increases-significantly-2020-even-donor-retention-rates#:~:text=%E2%80%9CIt%27s%20striking%20that%20on%20December, than%2015%25%20throughout%20the%20year.*

to assess long-term community needs, including education, healthcare, and living-wage jobs.

In addition, we encourage Congress to ensure distributions from an individual retirement account (IRA) to donor-advised funds qualify as part of the IRA charitable rollover. Current law prohibits donors from contributing to a DAF even though DAFs are a flexible and efficient philanthropic tool to support community philanthropy. This provision would provide donors and grantmakers with an important option to maximize the value of IRA charitable donations and allow them to support communities in need with financial resources.

We urge Congress to support the continued flexibility of DAFs to address the emerging and long-term needs of communities across the country. We recommend that Congress seek to expand the overall philanthropic giving environment with the aim of delivering more to those in need—without damaging the charitable vehicles that allowed for record-breaking giving in 2020, just as Americans needed it most.

Strengthen Support for the Nonprofit Sector

Nonprofits are the backbone of our communities, and too many are struggling to find and maintain qualified staff, fulfill their missions, and meet the ongoing needs of their communities.

Foundations have stepped up to support nonprofit organizations. Some, such as the San Diego Foundation, created funds specifically for pandemic relief. The San Diego Foundation's COVID–19 Community Response Fund, developed in partnership with local leaders from government, business, nonprofits, and schools, granted $64 million in 2020, including 387 grants to over 250 nonprofit organizations working on the frontlines of the pandemic. But foundations cannot do this important work alone. Congress has a duty to support nonprofits and ensure they can not only survive the pandemic but also thrive in its aftermath.

The Council strongly encourages Congress to prioritize legislation that will strengthen the nonprofit sector and provide resources to organizations and communities, including passing the Work Opportunities and Resources to Keep Nonprofit Organizations Well (WORK NOW) Act (S. 740). The WORK NOW Act would provide nonprofits with the funds they need to continue to serve their communities in a time of uncertainty and upheaval.

The Council also urges Congress to pass the Legacy IRA Act (S. 243). This legislation would enable retiring Americans to make tax-exempt contributions from their IRA accounts to charities through life-income plans. Empowering middle-income seniors with an additional option for their philanthropy would help encourage needed charitable dollars to flow to community organizations.

Last, the Council strongly supports the Workforce Development through Post-Graduation Scholarships Act (S. 2191). This legislation would allow foundations to help address the student debt crisis head-on by ensuring post-graduation scholarships are treated the same as traditional scholarships. These scholarships would provide foundations with an additional tool to incentivize graduates to return to regions in need of their skills, creating the opportunity for business growth in regions that have been impacted by economic upheaval. This legislation is a win for graduates and for struggling communities.

The United States is the most charitable country in the world, and the nonprofit and charitable sectors play an essential role in our culture. We ask that Congress work to ensure this critical role is not eroded by the COVID–19 pandemic, disasters natural or manmade, or the associated economic crises by deploying every tool available to ensure nonprofit organizations can continue to respond to local needs.

Thank you again for this opportunity to include testimony on the record. We appreciate this committee's leadership and its focus on the struggles that charitable organizations and the nonprofit sector face as economic and social upheaval continue. The Council on Foundations can provide any of the material cited in this testimony and stands ready to work with you to rebuild in the wake of crisis.

Respectfully submitted,
Kathleen Enright
President and CEO

FOOD DONATION CONNECTION
P.O. Box 22787
Knoxville, TN 37933

Statement of Jim Larson, Vice President, Development

Chairman Wyden and Ranking Member Crapo, on behalf of Food Donation Connection ("FDC"), thank you for holding this important hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector." FDC greatly appreciates the opportunity to provide this statement for the record.

Who We Are

Since 1992, FDC has assisted food service companies with the development and implementation of Harvest Programs designed to provide an alternative to discarding surplus food.

We have coordinated the donation of over 750 million pounds of quality prepared food from food service providers located in the United States, Canada, Poland, Spain, as well as in other countries. In 2021, 1,300 business entities through 14,000+ food-service locations (restaurants, airports, travel plazas, retailers, hotels, universities, hospitals, distribution centers) donated 65 million pounds of prepared surplus food to 10,000 hunger relief organizations.

Our team members have experience with major restaurant chains and retailers in operations and food quality. Our entire full-time staff of 30 team members is ServSafe® certified in food safety.

What We Do

FDC manages food donation programs for food service companies interested in donating food. The donating process is based on donors receiving economic benefit through tax savings in addition to involvement with community and corporate goodwill.

Donors are linked to those in need through existing non-profit hunger relief organizations.

FDC administers these programs through the use of an efficient communication and reporting network. Program responsibilities include linking donor locations with food rescue groups or those feeding the needy, assisting in the development of product quality and handling standards, tax valuation, donation reporting and ongoing monitoring and follow-up to ensure program implementation and growth.

FDC coordinates food donation programs for Pizza Hut, KFC, Whole Foods, Olive Garden, LongHorn Steakhouse, The Capital Grille, Eddie V's, Yard House, Bahama Breeze, Seasons 52, Cheddar's, Red Lobster, McDonald's, Chipotle Mexican Grill, Auntie Anne's, Chick-fil-A, HMSHost, Einstein Bros Bagels, Wawa, Outback Steakhouse, Fleming's Prime Steakhouse, Bonefish Grill, Carrabba's and others.

Need for Regulatory Guidance Regarding Contributions of Food Inventory

As noted in the Joint Committee on Taxation document accompanying this hearing,[1] contributions of food inventory are entitled to an enhanced deduction under Section 170(e)(3) of the Internal Revenue Code, which is intended by Congress to help compensate potential donors for the administrative costs associated in making inventory donations. These costs include the identification and selection of appropriate food banks and other hunger relief agencies as well as the preparation, and packaging of food in accordance with applicable food safety regulations.

Regulatory guidance, however, is necessary to clarify an issue created by the current Treasury Regulations and ensure that that Section 170(e)(3) works as intended such that donors of food inventory are (i) allowed to recover their "basis" in contributed inventory, and (ii) able to compute the enhanced deduction. This clarification will help donors satisfy the increased demand on food banks and other hunger relief agencies in light of the continuing impact of the COVID–19 crisis and the recent increase in inflation.

FDC, along with a number of other organizations, has worked for a number of years to secure this needed regulatory guidance. A guidance project to address the issue was included in every Treasury Department/Internal Revenue Service Priority Guidance Plan from 2015–2016 to 2020–2021. In addition, H.R. 8817, The Preserving Charitable Incentives Act, a bipartisan bill introduced in the House of Representa-

[1] Joint Committee on Taxation, "Present Law and Background Relating to the Federal Tax Treatment of Charitable Contributions" (JCX–2–22) (March 11, 2022).

tives, includes a provision encouraging the issuance of this important guidance as soon as possible.

Despite the time and resources that the government has dedicated to this guidance project, guidance has not yet been issued and the project was surprisingly dropped from the 2021–2022 Priority Guidance Plan without explanation. Nevertheless, we continue to believe that the need for this guidance should be given a priority in light of the current food insecurity in the country. Thus, we respectfully request your assistance in encouraging the Treasury Department and the Internal Revenue Service to prioritize and issue this important guidance as soon as possible.

GIRL SCOUTS OF THE USA
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The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

March 16, 2022

Dear Chairman Wyden, Ranking Member Crapo and Senate Finance Committee Members:

On behalf of Girl Scouts of the USA, thank you for calling a hearing on charitable giving and trends in the nonprofit sector. We look forward to the testimony of nonprofit experts and to understand the interests and concerns of committee members.

I am pleased Dan Cardinali, President and CEO of Independent Sector (IS), is speaking on behalf of the nonprofit community. We are an active member of IS and appreciate his comprehensive explanation of the sector's priorities.

As you investigate the nonprofit sector's well-being, it is important to consider that many funding sources support nonprofit rebuilding and growth as organizations recover from the pandemic. Among those varied sources, two provisions have been especially helpful for Girl Scout councils across the country: the universal charitable deduction and the Employee Retention Tax Credit (ERTC).

Charitable giving has been one important lifeline for the nonprofit community throughout the pandemic. As you know, Congress enacted a $300 charitable deduction for nonitemizers in March 2020. Donors responded to this change with about a 28% increase in gifts of $300 on December 31, 2020—the exact amount of the deduction. Congress extended the universal charitable deduction through 2021, but unfortunately, the temporary provision expired at the end of last year.

I am grateful to the sponsors and cosponsors of the Universal Giving Pandemic Response and Recovery Act (S. 618), including members of this committee—Senators Lankford, Cortez Masto, Tim Scott, Stabenow, and Hassan. This bill would further incentivize giving by increasing the cap, extending the deduction through 2022, and including gifts to donor-advised funds. However, this bill is only a temporary response to a long-term issue. We must ensure the sustainability of the universal charitable deduction for the years to come. **Congress must renew and extend the universal charitable deduction to ensure nonprofits have a reliable way to secure donations to support their missions.** Girl Scout councils around the country rely in part upon charitable giving to continue their work of supporting their community and building girls of courage, confidence, and character.

In addition to charitable giving, Girl Scout councils relied upon the Employee Retention Tax Credit to help fund operations and maintain staff who provide programming for girls, support volunteers and continue to sustain our Movement. **The ERTC allowed at least half of our Girl Scout councils to redirect $50 million toward staff and operations, primarily in 2021.** However, the Infrastructure Investment and Jobs Act (Title VI, Section 80604) retroactively halted the ERTC, cutting off one calendar quarter of the tax credit. **On behalf of Girl Scouts of the USA, I strongly urge you to reinstate that credit.** The Employee Retention Tax Credit Reinstatement Act (S. 3625) is an important first step to help nonprofits rebuild from the pandemic as it reinstates the ERTC for fourth quarter 2021, but there is more to be done. Beyond this bill, I will continue to ask Congress to allow nonprofits to access ERTC for 2022 and to modify nonprofit eligibility beyond the current "gross receipts" test to better reflect how nonprofits operate.

The ERTC is a tailored relief provision designed to help organizations that demonstrate need—only those that meet the criteria for decline in revenue and employee retention are eligible to receive the credit. It is now—retroactively—repealed, with detrimental impacts to staff, operations and the communities they serve. Girl Scouts continues to contribute to our nation's relief, recovery, and rebuilding, and ERTC has been an important financial component that helps drive our success.

Thank you for your support of the nonprofit sector and for your dedication to helping girls across the country. I urge you to consider our important requests, which would ensure that the Girl Scout Movement can continue to provide girls with an unmatched leadership development experience. If you or your staff have questions, please do not hesitate to reach out to me at SSanta@girlscouts.org.

Sincerely,

Sue Santa
Senior Vice President, Public Policy and Advocacy

STATEMENT SUBMITTED BY JON HEYMANN

Non-profits are the heart and soul of a city. Without them, we would never know what is occurring in the neediest neighborhoods and communities—those communities that most people never walk in, shop in, or worship in.

From the homeless shelters to the afterschool programs, to the early learning centers, to the hospitals, to the mental health services,

- These non-profits do the research no one else does.
- These non-profits do the work no one else is equipped to do.

They love mercy, they do justice, and they walk humbly in the midst of our communities. Sadly, they have been called parasites and leaches of the public coffers, taking needed resources that could otherwise be used for potholes, business incentives, downtown development, as well as the services of our first responders—police, fire, and EMT.

So, yes, we have our first responders (Police, Fire, etc.), we have business development, we have our school system, we have our colleges and post-secondary certification programs (plumbing, electrical, etc.) to fill the high wage, high demand, high skilled jobs.

But what do non-profits do that no one else does—let me repeat that—that no one else does—not government, not churches, not first responders, not schools nor colleges? Simply this: non-profits, especially as it relates to children. take a laser-tight focus on the gaps that prevent kids from being **EDUCATED, SAFE, and HEALTHY.** They study these gaps; they create efficiencies to plug these gaps; they develop processes and activities to fill these gaps. Furthermore, they monitor, measure and evaluate the impact of these activities in order to create the greatest Return on Investment (ROI) of their funding. Where would we be if it were not for the after-school programs, mentoring activities, summer camps, mental health services, as well as the hospitals, etc?

Child serving non-profits. No one else in our cities builds and rebuilds the countless thousands of young lives that otherwise would lost to the streets, the gangs, the courts, the jails, and the morgues.

Our marching orders are simple: (1) make a massive positive difference, (2) for the greatest number of children, (3) in the shortest period of time. All non-profits worthy of our support should be evaluated against those three measures.

But non-profits must wrestle with a dreadful assumption: there are not enough resources to meet all the needs of all the children in all the neighborhoods. So we find ourselves in a constant state of "triaging" our communities, grappling with identifying the most critical needs that deserve our immediate attention, and then, how do we bring these best practices to scale.

Non-profits creatively and judiciously leverage their financial resources to add funding for their critical services and their underpaid staff. Here are examples of investments, and the leveraged resources that go into filling the gaps to help kids become educated, safe and healthy.

- Early Learning Coalitions make sure millions of impoverished children can attend a "Quality Star Rated" EL Center and be ready for kindergarten.
- Healthy Families matches local city dollars to do hospital and home visit to moms of brand new babies to avoid abuse and neglect.
- Mental and Behavioral Health programs have totally redesigned their delivery models in order to reduce the stigma and to bring their mental health services closer (proximity) to students with mental and behavioral health issues.
- Federal funding for afterschool programming has increased support for non-profit afterschool programs, as well as the all-day summer camps to prevent the "Summer Loss."
- Nutrition. Because of childhood obesity and diabetes, non-profits operate some of the largest nutrition programs that includes providing nutritious snacks and meals to afterschool kids, summer camp kids and thousands of kids throughout our local communities at a variety of sites: churches, community centers, etc.
- Garnering funding to get uninsured children KidCare medical insurance for working parents that fall below the poverty line. "Get well, stay well; be well." When healthy well kids attend school more consistently, working parents don't miss as much work.
- Non-profits have talked the monumental tasks of improving their Data sharing, increasing participation, and improving their quality.
- Non-profits also demonstrate how their programs are improving both Crime Prevention and Economic Development.

Lastly, the non-profit staff are often the very first people to confront the traumatic and dangerous environment of the children that they serve, whether it's domestic violence and discord, mental health emergencies, bullying, school violence, depression, suicide, gangs, etc., etc., etc.

Clearly, non-profit staff are "Essential Personnel" and clearly should be considered First Responders.

LETTER SUBMITTED BY AARON HORVATH, PH.D., POSTDOCTORAL FELLOW, STANFORD UNIVERSITY CENTER ON PHILANTHROPY AND CIVIL SOCIETY; AND JEAN LIN, PH.D., ASSISTANT PROFESSOR, CALIFORNIA STATE UNIVERSITY, EAST BAY

March 22, 2022

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510–6200

Dear Senate Committee on Finance,

The following is a statement for the record in regard to the March 17, 2022 Committee Hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector." This brief report, prepared in May 2020 and provided below, shares details from ongoing research on how nonprofit organizations around the country rose to meet the challenge of the COVID–19 pandemic. We observe that nonprofits of all sorts (ranging from soup kitchens to performance troupes to boxing clubs) proved to be mainstays of community survival in two crucial regards. First, they provided public health information, dispelled rampant misinformation, and helped communicate how broad directives applied to community-specific circumstances. Second, they adapted their services, both finding new ways to address longstanding needs (*e.g.,* providing food and shelter) and innovating entirely new pandemic-related services using the resources available on hand (*e.g.,* making and distributing masks).

As we've found in our research, nonprofits served as a critical piece of social infrastructure, one that propped up American communities at a time when the public and commercial sectors were struggling to muster a comprehensive response to an unprecedented situation. Despite all this activity—which nonprofits undertook at great cost to themselves—efforts to support these organizations have been underwhelming. Certainly the Paycheck Protection Program, the nonitemizer deduction, and the Employee Retention Tax Credit have helped buoy the sector through difficult moments. But congressional inaction has allowed these critical measures to lapse. More must be done to sustain nonprofit organizations, especially as they continue to face fallout from the pandemic, including financial shortfalls, inflationary pressures, and a host of workforce challenges.

We offer the following report as an illustration of what we stand to lose should these and other critical measures not be extended. If we fail to sustain our civic institutions at this critical moment, we risk not having them around to sustain us when the next crisis hits.

Sincerely,

Aaron Horvath and Jean Lin

May 20, 2022

Report: Nonprofits across the U.S. are helping their communities to survive the pandemic. But will nonprofits themselves survive?

Aaron Horvath, *Stanford University*
Jean Lin, *Cal State East Bay*

"In our 150-year history," writes a San Francisco homeless services nonprofit in a Facebook post, "we . . . have never faced a challenge like COVID–19." It's an ominous claim for an organization that's weathered two outbreaks of the bubonic plague (in 1900 and 1907), the 1918 flu, and the HIV/AIDS epidemic. But earlier this month, COVID–19 nearly forced the organization to close. One of the organization's shelters became the unwitting epicenter of the city's largest coronavirus outbreak. Ninety-five homeless clients and ten staff tested positive for the disease. Within two weeks, the shelter had successfully moved its clients to isolated living arrangements, hired a hazmat crew to clean the facility, and reopened its doors in service of a renewed purpose: housing for homeless guests recovering from the virus. In concluding its Facebook post, the shelter was defiant: even the pandemic "#CantStopGood."

At a time when government is struggling to keep pace with the pandemic, civic organizations are providing a patchwork of social welfare—both improvising new means of continuing longstanding, essential community services and innovating entirely new services in response to unmet community needs. Through an ongoing study of 800 nonprofits operating in regions around San Francisco (CA), Dallas (TX), Detroit (MI), Lancaster (PA), Miami (FL), and Sioux Falls (SD), we are finding that, beneath a surface of closed offices and canceled events, nonprofits are demonstrating surprising resilience in the face of unprecedented adversity. Despite dwindling funds and little support on the horizon, these organizations—be they knitting clubs, soup kitchens, or repertory theatres—are serving as a critical lifeline in the fight against a global pandemic.

Nonprofits are adapting in several ways. They are rearranging schedules, workforces, and physical spaces to continue providing essential services. Responding to a tenfold growth in demand, a nonprofit serving the low-income Latino population of Lancaster converted its sit-down dining facility into a "Grab & Go" model. Likewise, organizations that, before the pandemic provided in-person services to homebound seniors—such as providing medicine, food, and companionship—have reorganized their operations around a delivery model, even sourcing microwaves and refrigerators to donate to recipients in need. One Detroit-area senior center moved its extensive catalogue of fitness classes online, airing some, like "Gentle Moves Yoga," on a local TV station twice daily. As one organization puts it, "our programs have not been canceled; they're just different."

Many nonprofits have also pivoted to meet previously unimaginable community needs. A science museum in Florida hosted a virtual Q&A with an infectious disease specialist in order to dispel rumors, misinformation, and other common misunderstandings about COVID–19. They also enrolled their powerful computer servers in a grassroots effort to model SARS–CoV–2 proteins—crucial in the race to develop a vaccine. A Miami-area business association established a "rapid relief fund" providing $500 grants to low-income families otherwise ineligible for state aid.

A youth boxing gym in Michigan—a state overwhelmed by infections—has braved snow and sleet to deliver 1,000 gallons of hand sanitizer throughout the region. The organization's leadership took it upon itself to inform the community as well. As the executive director of that organization put it: we "spent countless hours on the phone debunking myths, putting together lists of Facebook-based COVID myths, calling family after family, and kid after kid—anyone who might have a tendency to believe Internet gossip." Parents who are otherwise weary of public health authorities are now masking up.

In California, costume designers at a Santa Clara theatre company are crafting masks for state employees, postal workers, and other vulnerable populations. They've helped to address a PPE shortfall by distributing 4,000 masks since early April. And, in the lighthearted spirit of musical theatre, they've even released a song: "Maskmaker, Maskmaker, make me a mask!"

Put in historical perspective, one might see nonprofits' collective contributions to pandemic relief as akin to the auto industry's contributions to American war efforts during World War II. Where carmakers repurposed their factories to produce plane engines, artillery, and armor, nonprofits are deploying staff, volunteers, and facilities to produce masks, create care packages, and provide other essential services. But where the work of GM and Chrysler was underwritten by Uncle Sam, nonprofits are acting on their own volition, often without sufficient support, and performing services that, in this unsteady economic moment, are unsustainable and may prove financially ruinous. The economic fallout of the pandemic threatens to further undercut already precarious funding streams, and nonprofits are facing grave difficulties staying afloat.

As nonprofits bend over backwards to serve their communities during the crisis, who is bending over backwards for them?

To be sure, the CARES Act offers charitable provisions—emergency funding, loan forgiveness, and donation incentives. But efforts to access federal support have been hampered by red tape and delay. Philanthropic foundations, often touted for funding what public funders miss, have relaxed their grant restrictions, allowing grantees greater flexibility. But the rules governing philanthropic endowments will likely impede any substantial increase in the total dollar amount of foundation giving.

If nonprofits cannot secure continued support, their ability to respond to community needs will be undermined and the already formidable fault lines of inequality will grow even wider. Communities will suffer when neither the state nor nonprofits take the lead.

Social service provision and the protection of public health has historically fallen to governments. But COVID–19 struck during a period of public welfare cutbacks when nonprofits were already shouldering an undue burden. The political climate and unknown duration of the current emergency do not afford nonprofits the luxury of suspending work until normalcy resumes. What's become clear over the past several months is that the whole gamut of nonprofit services are starting to look essential—both for the maintenance of life and the maintenance of communities in which we live.

IDAHO NONPROFIT CENTER
5257 W. Fairview Ave., Suite #260
Boise, ID 83706

March 17, 2022

The Honorable Mike Crapo
U.S. Senate
Washington, DC 20510

Dear Senator Crapo,

On behalf of the Idaho Nonprofit Center and the 7,268 charitable nonprofits in our state and their more than 60,000 employees, I write in advance of the upcoming hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector," to thank you for your past support for pandemic relief, to update you on the ongoing challenges that nonprofits are facing, and to explain the need for targeted relief within the jurisdiction of the Senate Finance Committee.

Idaho has prided itself as a state with a small government footprint and where solutions to problems are solved by local communities themselves. As such, Idaho nonprofits have played an immense role in providing services and community solutions both *before* and *during* the pandemic. **In short, we're proud to say that Idaho runs on nonprofits. But nonprofits need your help.**

The Idaho Nonprofit Sector Before and During the Pandemic

Data from the Idaho Nonprofit Center's 2020 State of the Sector Report, compiled in partnership with the University of Idaho, shows that prior to the pandemic, 10% of all private sector jobs in Idaho were with nonprofits. More than 7,000 nonprofit organizations produced 64,073 jobs and paid $4.25 billion in total employee compensation. Notably, Idaho nonprofits utilized $4.1 billion from out-of-state funding sources (*e.g.,* Federal grants).

The pandemic has taken a toll on all Idahoans. Surveys conducted over the past two years demonstrate that Idaho nonprofits have borne an outsized burden, both as employers and as providers of essential programs and services:

- 95% of nonprofits canceled events and expected reduced revenues as a result.
- 58% of respondents report an increase in demand for services.
- 42% of respondents report that the cost of providing services has increased.
- 36% of organizations report that their financial reserves have decreased.
- 31% of organizations reported decreased individual donations.
- 51% of organizations reported decreased earned income.

Also, data is not back yet for our forthcoming 2022 State of the Sector Report, but nonprofit job loss is an expected outcome. Nationally, the nonprofit sector was still more than 450,000 short of pre-pandemic levels, according to the report COVID–19 Jobs Update, December 2021 [1] from the Center for Civil Society Studies at Johns Hopkins University. That report found, "as of the end of 2021, nonprofits have recovered approximately 72.1% of the jobs estimated to have been lost as of May 2020."

With the above context, now address three areas of challenges that nonprofits are facing and propose tax policy solutions for your consideration: the lack of resources, the lack of staff, and the lack of volunteers—all of which are essential to advancing nonprofit missions.

Charitable Giving Tax Incentives

Charitable giving nationwide has not kept up with need and rising expenses. The 2021 Giving USA report found that individual giving decreased by nearly 0.8 percent in 2020 compared with 2019, when one major donor's contributions are removed from the data. A separate analysis, the Nonprofit Trends and Impacts 2021 [2] from the Urban Institute, found that small nonprofits were under particular stress. "Forty-two percent of organizations with budgets under $500,000 experienced decreased donations in 2020, compared with 29 percent of organizations with budgets of $500,000 or more." Nonprofits that said donations were essential to their revenue stream were also more likely to experience decreased donations in 2020.

There are no up-to-date sources of Idaho giving data. We can look to the results of the Idaho Gives day, put on by the Idaho Nonprofit Center, that is the state's largest multi-day giving event. Last year 16,000+ donors contributed $3.9 million to 600+ nonprofits in the state. Here is a breakdown in recent years:

- 2019 "Idaho Gives" Giving Total: $1.9M.
- 2020 "Idaho Gives" Giving Total: $3.9M.
- 2021 "Idaho Gives" Giving Total: $3.9M.
- 2019 Average gift size: $154/person.
- 2021 Average Gift size: $250/person.

Note that the average donation increased to $250, right in line with the universal charitable deduction amounts available to those who claim the standard deduction on their tax forms. We believe these numbers for "Idaho Gives" tell a story—the **public was likely incentivized to give more to 600+ Idaho nonprofits when the universal charitable giving deduction was in effect in 2020 and 2021.**

Tax Policy Solutions

In the aftermath of virtually every natural disaster since Hurricane Katrina, Congress has recognized the value of nonprofit relief and recovery efforts by enacting charitable giving incentives that encourage some individuals and corporations to help cover some of the costs of these community-based services. The COVID–19 pandemic and resulting economic crises have certainly qualified as natural disasters and Congress—a bipartisan basis—swiftly enacted giving incentives for those who

[1] *https://ccss.jhu.edu/december-2021-jobs/.*

[2] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*

itemize and corporations. Recognizing the catastrophic impact of health and economic crises, Congress went further by enacting, and then expanding and extending, the universal charitable or nonitemizer deduction to ensure that all taxpayers, including those who claim the standard deduction received a tax benefit for giving back to their communities by supporting the work of charitable nonprofits.

Regrettably, each of these disaster-related giving incentives was allowed to expire at the end of 2021. Yet, the pandemic continues to disrupt services, individuals in our communities continue to come to their local nonprofits for support, and private giving to these frontline organizations still has not returned to pre-pandemic levels. We anticipate that the need to restore and improve these giving incentives will be extensively discussed during the Senate Finance Committee hearing on Thursday. **We want to be clear that the Idaho Nonprofit Center strongly supports renewal of the universal charitable (non-itemizer) deduction at least through 2022.** Indeed, we fully endorse the Universal Giving Pandemic Response and Recovery Act,[3] S. 618, because it will further promote giving by all American taxpayers—regardless of their income—and generate needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic.

Similarly, we ask that you speak up during the hearing in support of extending the two additional disaster-relief giving incentives that expired on December 31, 2021—the provision permitting individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income and the measure allowing corporations to deduct charitable donations up to 25% of taxable income.

Nonprofit Workforce Shortages Crisis

One of the greatest challenges that nonprofits of every type of mission are experiencing is the inability to hire and retain qualified workers. A Federal Reserve survey[4] found that 40% of responding organizations reported that staffing levels are down. This past fall, the National Council of Nonprofits conducted a survey of the difficulties nonprofits across the country were confronting in retaining staff and filling vacancies. Three out of five (60%) survey respondents reported vacancies of between 10% and 30%, according to the NCN report, The Scope and Impact of Nonprofit Workforce Shortages,[5] published in December. Another 16% reported vacancies greater than 30%. Nationwide, nonprofits explained the causes of the vacancies as salary competition, typically with employers outside the nonprofit sector (79%) and the inability of potential employees to find child care (23%).

The survey responses of Idaho nonprofits make clear that these workforce challenges are no mere inconveniences; they are hurting the people the organizations serve. “We are a small senior center providing over 2600 meals per month to both congregate diners as well as to home bound seniors,” shared a human services provider, explaining, “We have a small staff of 3 to accomplish this task in a dilapidated kitchen with equipment that is over 20 years old and falling apart.” Regarding the workforce shortage, they noted, “In addition, we have recently lost 2 staff members, making our situation even more critical.” Another Idaho nonprofit summarized the problem: “Service needs are increasing while staff and resources are decreasing.” They added, “Having to turn clients away due to staffing is getting harder, our staff are working more hours to meet the needs.”

Idaho nonprofits similarly report significant challenges. Nearly 40% of nonprofits surveyed in late 2021 said hiring is “difficult or very difficult” right now. A nonprofit human service provider in the state shared, “It is much harder to find qualified employees to fill roles,” adding, “It will likely be at least one more full year before we get back to previous staffing levels that are adequate.”

Tax Policy Solutions

The Idaho Nonprofit Center and dozens of Idaho nonprofits joined more than 1,500 organizations from all 50 states in signing onto the recent letter to Congress and the Administration seeking Pandemic and Workforce Shortage Relief for Charitable Nonprofits.[6] Among other things, that letter calls on Congress to address critical

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[3] *https://www.congress.gov/bill/117th-congress/senate-bill/618/text?q=%7B%22search%22%3A%5B%22s618%22%2C%22s618%22%5D%7D&r=1&s=1.*

[4] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*

[5] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

[6] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

staffing shortages at nonprofits by retroactively restoring the Employee Retention Tax Credit, as proposed in the bipartisan ERTC Reinstatement Act (S. 3625), and extend this refundable payroll tax credit through 2022.

To the address the impact of the unique impact of nonprofit workforce shortages on individuals and communities, we ask that you modify nonprofit eligibility under the ERTC beyond the current "gross receipts" test to ensure more nonprofits qualify. We also request that Congress revise the definition of eligible payroll expenses under the ERTC to include child care and education subsidies to reflect the increased costs charitable organizations experienced as they struggle to maintain or expand services. We believe this improvement is justified because, unlike for-profit employers, tax-exempt nonprofits are not currently able to receive income-tax relief for providing those employee benefits. Our proposal provides a level of tax fairness and parity that does not currently exist.

Volunteers Have Not Returned

A unique aspect of charitable organizations is that they can expand their impact by leveraging the commitment of armies of volunteers who are dedicated to the work of nonprofits in their communities. Pre-pandemic estimates by AmeriCorps [7] indicate that the volunteerism rate in Idaho was 37.9%, contributing 48.6 million hours of service. Nationally and in Idaho, nonprofits reported throughout the pandemic that volunteerism dropped precipitously. Now, however, as many businesses return to public operations, many nonprofits still have not seen their volunteers return to pre-pandemic levels. Data from surveys conducted by the Idaho Nonprofit Center confirm that 60% nonprofits report a decrease in volunteers during the pandemic.

Tax Policy Solutions

As discussed in the recent nonprofit letter on policy priorities,[8] Congress can incentivize volunteerism by eliminating unfair tax policies. Specifically, we seek an increase in the Volunteer Mileage Rate for nonprofit volunteer drivers to the business rate (58.5 cents/mile) for 2022 and the elimination of the tax on mileage reimbursements up to the business rate. The rapid increase in gas prices mean that many nonprofits will need to reimburse their volunteers for driving on the charity's behalf. Yet, those drivers will be forced to pay income tax on any reimbursement rate greater than the volunteer mileage statutory rate of 14 cents per mile. This existing tax policy, enforced at both the federal and state levels, imposes a disincentive on all but the most well-off volunteers. It is unfair, harmful to the missions of charitable organizations, and must be changed.

Conclusion

As you consider the issues raised during the Finance Committee hearing, we ask that you reflect in the important, sustaining work that Idaho nonprofits performed throughout the pandemic and recognize that our challenges are far from over. Most for-profit businesses and government offices have or soon will reopen to something amounting to normal business. Most charitable organizations—particularly those addressing the immediate needs of our residents—never closed. Yet, **at this stage in the pandemic when demand for nonprofit services remains high, Idaho's nonprofits remain short of resources to meet normal as well as pandemic-related expenses.** But we don't just lack adequate resources; our nonprofits lack the staff and volunteers to meet the very high needs, which is resulting in waiting lists, denial of services, and outright closures of local nonprofits. In light of these compelling challenges, **we ask that you champion tax-policy solutions, at the hearing and in the Senate, that will restore and enhance the charitable giving incentives and the Employee Retention Tax Credit, and remove tax disincentives for volunteers to support the missions of nonprofits in their communities.**

Sincerely,

Kevin Bailey, CEO
kbailey@idahononprofits.org
208–424–2229

[7] *https://americorps.gov/sites/default/files/document/Volunteering_in_America_States_508.pdf.*

[8] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

INDIANA PHILANTHROPY ALLIANCE
32 East Washington Street
Indianapolis, Indiana 46204

Dear Chairman Wyden, Ranking Member Crapo, and Members of Committee, thank you for holding the "Examining Charitable Giving and Trends in the Nonprofit Sector" hearing on March 17, 2022.

Indiana is home to the second largest private foundation in the country and has the most independent community foundations in the United States—including at least one in all 92 Indiana counties. Indiana Philanthropy Alliance represents these foundations as well as a rich variety of generous family, private, public, and corporate foundations, and other social investors.

The philanthropic sector plays an important role in promoting and supporting the quality of life for Hoosiers. Over 1,200 foundations annually distribute more than $2 billion to nonprofits in support of a broad range of health, educational, cultural, human service, environmental, and other causes, with 76% going to Indiana-based organizations. Not only are these grantmakers investing in Indiana nonprofit organizations, they convene local leaders, collaborate on critical issues, seek innovative solutions, share knowledge, and advocate on behalf of local community needs. Additionally, nonprofit organizations are a major economic force in Indiana. On average, 1 in 10 Hoosiers are employed by the nonprofit sector.

It is an honor to represent the interests of Indiana's philanthropic sector and encourage charitable giving for every Hoosier. Given the opportunity, giving in Indiana has the potential to improve lives now and for generations to come.

With this in mind, Indiana Philanthropy Alliance respectfully asks for consideration of the following legislative proposals under the Committee's jurisdiction:

Oppose the Accelerating Charitable Efforts Act (ACE Act)

To increase charitable contributions, we must find ways to make giving easy. Fewer restrictions and more incentives clears the way for organizations to think creatively, build partnerships, and quickly bring more resources to the needs of our communities.

The ACE Act (S. 1982/H.R. 6595) purports to increase resources for charities. However, the provisions within the bill would do the opposite—harming the exact charitable organizations and communities its authors seek to help.

The bill's payout requirement on donor-advised funds (DAF) seeks a solution to a problem that does not exist while creating complexity and administrative burdens for community, private, and family foundations. This payout assumes a gross underspend from DAFs, without any substantiating data, while running counter to what is well-documented. In fact, grantmaking from DAFs to qualified charities totaled almost $35 billion in 2020 (a 117% increase since 2016) with a 23% average payout. Research conducted on these funds within the Hoosier state by Indiana Philanthropy Alliance and national nonprofit data clearinghouse Candid found DAF payouts by community foundations topped 9%. Additionally, 37% of all Indiana community foundation grants in 2020 were from DAFs, totaling over $68.4 million going back into local communities. While ACE Act includes an exception for community foundation DAFs under $1 million, this leaves out a significant and growing number of community foundation DAFs over this threshold. In Indiana, there are at least 63 such DAFs, and in 2021, they paid out an estimated 7%.

Under the current rules governing philanthropy, organizations can save and invest to not only address today's needs, but to ensure there will be a safety net when the next crisis occurs. However, by requiring certain DAF dollars to be exhausted within 15 years, the ACE Act would set a dangerous precedent of eliminating endowments and the benefit of exponential value growth over time. By failing to provide a safety net for the future, we will be leaving communities vulnerable to future disasters—like we have seen during COVID-19.

The ACE Act alters the structure of philanthropy without regard for unintended consequences. The proposed legislation would require foundations, many with three or fewer employees, to undertake a new system of accounting, increasing administrative costs. It would also eliminate donor privacy for some, while holding family foundations to stricter standards than other private foundations, creating a second unnecessary set of guidelines to monitor the same aspects of foundation operations.

Encourage Giving with Universal Charitable Deduction

Indiana Philanthropy Alliance urges the Committee to support legislation making the charitable deduction available to all taxpayers—regardless of their tax rate or whether they itemize. This includes The Universal Giving Pandemic Response and Recovery Act, S. 618, H.R. 1704. Such tax incentives encourage individuals to give away more of their income, devoting it to their community's needs rather than their own.

Section 2204 of the CARES Act, signed into law in March 2020, permitted eligible individuals who do not itemize deductions to deduct $300 of qualified charitable contributions throughout 2020. In December 2020, Congress extended the universal charitable deduction availability through 2021 and increased the cap to $600 for joint filers.

Since March 2020, charitable giving—especially of gifts less than the $300 cap—has increased significantly. According to data collected by the Fundraising Effectiveness Project, on December 31, 2020, there was a 28% increase of gifts of exactly $300, as compared with the previous year. Plus, gifts of $250 or less increased by more than 15% in the fourth quarter of 2020. While we know there are many factors that contribute to increased donations, one very compelling factor is likely the availability of the charitable deduction to nonitemizers.

Support Current Distribution Requirements by Private Foundations

Indiana Philanthropy Alliance urges the Committee to support the current 5% payout level for private foundation distributions that allows for the availability of funds for distribution in perpetuity. Previous national studies have shown that the current payout is optimum for supporting the long-term position of a foundation and ensuring the availability of charitable grantmaking for the future. This 5% is merely a minimum, and it's important to note that private foundations can, and often do, choose to pay much more. For example, Ball Brothers Foundation—a private foundation based in Muncie, Indiana—was established in 1926 with $3.5 million. 2022 marks Ball Brothers Foundation's highest payout in history—$10 million. This incredible gift was injected into the local community at a critical moment in time and would not have been possible with higher mandatory payouts draining the foundation's principal.

Recognize Nonprofit Cemeteries as Public Charities

Indiana Philanthropy Alliance urges the Committee to support the Grave Injustice Parity Act, H.R. 6226, which would amend the tax code to recognize nonprofit cemeteries as public charities. This bill would make nonprofit cemeteries less reliant on local, state, and federal dollars. It also simplifies the tax code by creating parity for 501(c)(13) cemeteries across all sections of the tax code listing deductible charities.

Under the current tax code, nonprofit cemeteries—not categorized as religious or municipal—are categorized as 501(c)13 organizations, not 501(c)3 public charities. This is a problem because not only are these cemeteries restricted from receiving estate gifts from people wanting to maintain family burial sites, they also cannot receive gifts from public or private foundations. Additionally, community foundations, which manage endowments benefiting public charities, cannot hold designated funds or endowments for these cemeteries. There are over 12,000 such cemeteries in existence in the U.S., with Indiana ranking 6th highest in the nation with 607.

This change would have a negligible effect on federal revenues while continuing to allow charitable dollars to flow towards charities. The Congressional Joint Committee on Taxation found the 10-year loss of federal revenue as a result of this legislation would be less than $2 million.

Permit Foundations to Provide Post-Graduation Scholarship Programs

Like many other states, Indiana has a talent problem in rural communities—with 240,000 vacant positions (Jan. 2022, Bureau of Labor Statistics). Further exacerbating this problem, about 10,000 people leave the state each year after they graduate (20% of graduates). Without an adequate workforce, economic growth cannot occur. To strengthen Indiana's economy, efforts must be made to incentivize workers to return to their communities after graduation.

Indiana Philanthropy Alliance urges the Committee to support legislation (including the Workforce Development Through Post-Graduation Scholarships Act, S. 2191/ H.R. 4095) that permits foundations to provide post-graduation scholarship programs. Doing so promotes talent attraction and retention in communities by providing student loan forgiveness to college students after graduation. Such legislation will combat "brain drain," stimulate regional economic growth, and address the growing student debt crisis.

A post-graduation scholarship is a type of charitable grant that foundations would make to attract individuals who have career skills needed in a particular region, encouraging them to make their homes and build their careers in that community. It would function much like a traditional scholarship but would pay off a portion of student loans held by an individual who has completed a degree or technical program that qualifies them to work in a chosen career field needed in a community.

Initiative to Accelerate Charitable Giving

March 17, 2022

The Honorable Ron Wyden
The Honorable Mike Crapo
U.S. Senate
Committee on Finance
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen Wyden, Ranking Member Crapo, and members of Senate Committee on Finance:

On behalf of the Initiative to Accelerate Charitable Giving (IACG),[1] a coalition of philanthropists, leaders of major foundations, non-profits, and others who represent a broad spectrum of interests across the philanthropic community, we appreciate your leadership on how to strengthen America's working charities, including by considering reforms that will ensure more money reaches these charities faster.

The crises of the last several years have reinforced the important role that our nation's charities play in providing needed services to our communities, from serving food to the hungry to providing clothing and shelter for Americans in need. It has become increasingly clear, however, that some of our antiquated charitable giving laws no longer work as intended, and steps must be taken to increase the pace and flow of resources to charitable organizations.

With more than $1 trillion sitting in private foundations and donor-advised funds (DAFs) for which donors already have received tax deductions, and almost 90 percent of Americans not receiving any tax benefit for their charitable giving, one report showed that more than one-third of nonprofits[2] throughout the country are in jeopardy of closing within two years. In addition, the nonprofit workforce is still roughly 459,000 jobs[3] below its pre-pandemic level.

Now more than ever, we must restore the connection between charitable tax benefits and benefits to charities. Our coalition has come together in support of the following common-sense reforms[4] that we believe could significantly increase the flow of resources to working charities:

- For private foundations, close loopholes to better ensure that distributions qualifying for the payout requirement are available for use by working charities; and encourage greater payout through reforms to the excise tax.
- For DAFs, adopt measures to ensure that DAF account balances are distributed to working charities within a reasonable period of time.
- For individuals, incentivize greater giving by improving and extending the new non-itemizer charitable deduction in a cost-effective way.

We look forward to working with members of the Senate Committee on Finance and policymakers across the spectrum as this conversation moves forward.

Sincerely,

Members of the Initiative to Accelerate Charitable Giving

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[1] *https://acceleratecharitablegiving.org/.*
[2] *https://apnews.com/article/coronavirus-puts-1-in-3-nonprofits-financial-jeopardy-93d410c99425f0ac54b3190a656db200.*
[3] *http://ccss.jhu.edu/december-2021-jobs/.*
[4] *https://acceleratecharitablegiving.org/reforms/.*

IOWA COUNCIL OF FOUNDATIONS
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AND

UNITED WAYS OF IOWA
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Des Moines, IA 50134

Statement of Kari McCann Boutell, President, Iowa Council of Foundations; and Deann Cook, President and CEO, United Ways of Iowa

On behalf of over 14,000 nonprofits and over 147,000 nonprofit employees working in organizations across Iowa, we submit this statement to encourage additional nonprofit supports and charitable giving incentives following the Senate Finance Committee hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector." We appreciate the variety of programs and incentives that have aided the charitable sector during the pandemic.

We have heard from members of our networks and the broader nonprofit community in Iowa about the lifeline that programs like the Paycheck Protection Program and the Employee Retention Tax Credit were over the last two years. Those programs helped keep doors open but many nonprofits are still struggling with ongoing challenges. The sector needs targeted supports to fully recover and sustain operations to continue providing critical services for our state.

Our organizations jointly advocated for targeted relief for Iowa nonprofits in the early months of the pandemic. We were able to secure $10 million in CARES Act funding to establish the Iowa Nonprofit Recovery Fund. In administering that grant program, we learned that many Iowa nonprofits experienced a sharp decrease in revenue at the same time they were experiencing a sharp increase in demand for services. Periodic nonprofit surveying completed by the Iowa Economic Development Authority and the University of Northern Iowa's Institute for Decision Making tells us that these trends are persisting two years later. That, coupled with rising costs and workforce shortages, has many nonprofits struggling to meet demands.

We see the following strategies as the most valuable ways Congress can support the charitable sector now and moving forward:

- We urge you to support the Universal Giving Pandemic Response and Recovery Act (S. 618).
- We urge you to support the retroactive restoration of the Employee Retention Tax Credit, as proposed in the bipartisan ERTC Reinstatement Act (S. 3625).
- We urge you to increase the Volunteer Mileage Rate for nonprofit volunteer drivers to the business rate (58.5 cents/mile) for 2022 and eliminate the tax on mileage reimbursements up to the business rate.

We thank you for your support of the charitable sector and ask for your continued commitment to nonprofit recovery and charitable giving incentives to strengthen the critical work of Iowa nonprofits. Please reach out if we can provide additional information or help answer any questions.

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The Jewish Federations of North America (JFNA) appreciate the opportunity to submit a statement for the record relating to the Senate Finance Committee's March 17, 2022, hearing titled "Examining Charitable Giving and Trends in the Nonprofit Sector." We applaud the leadership of Chairman Wyden, Ranking Member Crapo, and Members of the Committee for holding this hearing highlighting issues important to the charitable sector.

Background on JFNA

JFNA represents 146 Jewish Federations and over 300 Network communities, which raise and distribute more than $3 billion annually, and, through planned giving and endowment programs, support social welfare, social services, and educational needs in society. The Federation movement, collectively among the top 10 charities on the continent, protects and enhances the well-being of Jews worldwide through the values of *tikkun olam* (repairing the world), *tzedakah* (charity and social justice) and *Torah* (Jewish learning).

In the fields of caregiving, aging, philanthropy, disability, foreign policy, nonprofit security and health care, we are thought leaders and advocates. We promote a public-private partnership to support thousands of agencies serving more than a million clients of all backgrounds, Jewish and non-Jewish alike, including hospitals, nursing homes, community centers, family and children's service agencies, and vocational training programs.

At a time when Jews are less economically and physically secure than a decade ago, JFNA leads a continental response, providing assistance and rapidly raising and distributing funds to serve the most vulnerable among us. We have provided immediate relief and long-term assistance to Jewish and non-Jewish victims of natural and manmade disasters around the globe, including Houston, the Philippines, Haiti, Japan, and, now, in Ukraine.

Current Tax Policy Priorities

JFNA appreciates the opportunity to highlight the below tax policy issues important to our Federations and the nonprofit sector.

Universal Charitable Deduction

The Jewish Federations strongly supports the renewal and expansion of the universal charitable deduction and the Universal Giving Pandemic Response and Recovery Act (S. 618). As the nonprofit sector works to recover from the crippling effects of the COVID pandemic, it is critically important to ensure that Americans who donate to charities and religious organizations can receive a tax deduction at an amount higher than the most recent $300 deduction level (before the provisions expired last year).

A significant amount of charitable giving and grantmaking at our Jewish Federations are conducted through donor-advised funds, which is why we strongly support the provision in S. 618 that enhances the non-itemizer provision by including gifts to donor-advised funds. We believe this would allow for more charitable grantmaking and assist communities and nonprofits during times of crisis.

Preserving and Strengthening Donor-Advised Funds

Donor-advised funds (DAFs) are an efficient philanthropic tool that allow Jewish Federations to raise and grant charitable dollars for the benefit of our local communities. In 2020, Jewish Federations collectively granted more than $1.5 billion from DAFs, and Federations typically achieve a payout rate for DAFs that is well over 20 percent.

DAF grants are particularly important during emergencies. Responding to COVID–19, Federations raised supplemental funds that exceeded $200 million with more than $80 million coming directly from grants from DAFs. Federation DAF distributions were up 10% in 2020 compared to 2019, mostly because of the pandemic. More recently in response to Hurricane Ida, JFNA raised and distributed $250,000 in the fall of 2021 to provide assistance in the Gulf Coast with more than half of that funding originating from DAFs. In the last several weeks, we have already raised and distributed $24 million in Ukrainian relief with much more to come. A very significant percent of that funding will have originated from donor-advised funds.

JFNA urges Congress to protect and preserve DAFs as an important philanthropic tool and we encourage policymakers to reject legislation that would disincentivize DAFs and suppress charitable grantmaking. Attached is a recent letter led by the Jewish Federations signed by more than 300 charitable groups rejecting legislation that would negatively impact DAFs. DAF grants have been vital to helping nonprofits weather the COVID pandemic and continue their charitable mission.

Employee Retention Tax Credit

The Jewish Federations support extending and modifying the Employee Retention Tax Credit (ERTC) as one way to assist nonprofits in combating the effects of the COVID pandemic and the staffing shortages currently faced by charitable organizations.

Prior to the pandemic, charitable nonprofits employed more than 12 million people, making the nonprofit sector the third largest industry in the country—larger than the construction, financial services, and manufacturing industries. As of December 2021, there were 450,000 fewer employees in the nonprofit sector as charitable organizations report significant difficulties retaining staff and filling vacancies. As the economy seeks to recover from the COVID pandemic, having a fully staffed charitable sector is critical.

To alleviate this workforce crisis in the charitable sector, the Jewish Federations encourage Congress to:

- Retroactively restore the Employee Retention Tax Credit, as proposed in S. 3625, the ERTC Reinstatement Act,
- Extend this refundable payroll tax credit through 2022, and
- Modify nonprofit eligibility beyond the current "gross receipts" test and define eligible payroll expenses to include childcare and education subsidies to reflect the increased costs charitable organizations are experiencing as they struggle to maintain or expand services to meet the local needs throughout the health and economic crisis.

Legacy IRA Act

The Jewish Federations support S. 243, the Legacy IRA Act. The legislation would permanently expand the current IRA charitable rollover by allowing seniors starting at age 65 to make tax-free IRA rollovers to charities through life-income plans (charitable gift annuities or charitable remainder trusts). The legislation would also increase the annual rollover limit to $400,000 by which seniors can give to charities through their IRA.

The current IRA charitable rollover has been a successful philanthropic tool as it has generated millions of dollars in new charitable contributions. Expanding the provision will only further charitable giving and benefit local nonprofits during this critical time. We encourage Congress to pass this bipartisan piece of legislation.

Attachment:

August 2, 2021

The Honorable Ron Wyden	The Honorable Mike Crapo
Chair	Ranking Member
U.S. Senate	U.S. Senate
Committee on Finance	Committee on Finance
219 Dirksen Senate Office Building	219 Dirksen Senate Office Building
Washington, DC 20510	Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of the more than 300 undersigned national and community organizations representing each of the 50 states, we write to express our opposition to the Accelerating Charitable Efforts Act. This legislation recently introduced by Senators Angus King (I–ME) and Charles Grassley (R–IA) as S. 1981 would undermine important charitable tax incentives in ways that could be devastating to the vulnerable community members supported by our philanthropy.

S. 1981 seeks to place restrictions on private foundations and donor-advised funds (DAFs), which are a fast-growing tool for philanthropists at all levels to make multigenerational commitments to charity. DAFs are the simplest, most flexible, and most economical way for philanthropists to make these gifts. Supporters of DAFs call them "greenhouses" rather than "warehouses" for charitable giving. They encourage donors and their families to develop long-term giving plans and ensure that charities have the resources to realize their philanthropic visions far into the future.

Among the significant benefits of DAFs are that they allow charitable gifts to grow over time and thus have a much bigger impact, provide a simpler and less expensive vehicle than setting up and running a private foundation, and use funds—which are donated irrevocably—exclusively for charitable purposes. National data from the 2020 DAF Report shows that DAFs annually allocate an average of 20% of their assets on hand to qualified charities—by contrast, foundations are required to distribute 5% of their funds per year.

The core argument promoted by supporters of the Accelerating Charitable Efforts Act is that DAFs keep funds locked up and unavailable to meet pressing needs. This is not borne out by our experience in which grants from DAF holders resulted in the immediate spending of more than $200 million to alleviate suffering from the pandemic.

The Accelerating Charitable Efforts Act would limit DAFs by requiring that their funds be spent within a prescribed time-period (such as 15 years), limiting the life of a DAF, delaying the charitable tax deduction until the funds are disbursed, and not permitting the donor to deduct the fair market value of property given to a DAF. These provisions would reduce the incentive for donors to use DAFs, pave the way for their elimination, and sharply curtail philanthropic giving to charities and their beneficiaries. Moreover, the various restrictions proposed by the legislation would serve to add to the administrative burdens and expenses of those charities that sponsor DAF programs. In short, it would diminish rather than enhance our communities' and their donors' ability to support urgent charitable needs throughout our country and across the globe.

The legislation would also restrict the useful ways that private foundations use DAFs to further their charitable missions, as well as disallow foundations from treating certain administrative expenses (such as salaries and expenses paid to family members) as a qualifying distribution. As opposed to seeking to expand these important philanthropic tools, the legislation would inhibit their important charitable work.

We have grave concerns with the Accelerating Charitable Efforts Act and look forward to working with you and your colleagues to advance the interests of the charitable sector and enact policy solutions that promote, rather than suppress, both short-term and long-term philanthropy. We would welcome the opportunity to brief you and your staff on our position on this bill. To discuss this legislation, please reach out to The Jewish Federations of North America (Stephan.Kline@JewishFederations.org) or the Community Foundation Public Awareness Initiative (jhamond@vsadc.com).

Sincerely,

The Jewish Federations of North America
The Community Foundation Public Awareness Initiative

National Organizations

ADL
Agudath Israel of America
American Jewish Committee
American Lung Association
American Red Cross
Arthritis Foundation
Association of Jewish Aging Services
B'nai B'rith International
BBYO
Citygate Network
Council for Christian Colleges and Universities
Council for Health and Human Service Ministries (United Church of Christ)
Dance/USA
Disabled Children's Fund
DonorsTrust
Easterseals
Evangelical Council for Financial Accountability
Faith and Giving
Girls Inc.
Good News Communications, Inc.
HIAS
Hillel International
JCC Association of North America
Jewish Council for Public Affairs
Jewish Women International
Lutheran Center for Religious Liberty
Lutheran Services in America
Mennonite Health Services
National Coalition Supporting Eurasian Jewry
National Philanthropic Trust
Network of Jewish Human Service Agencies
One Mission Society
OPERA America
Philanthropy Roundtable
Stewardship Matters
U.S. Council of Muslim Organizations
Union for Reform Judaism

Regional, State, and Local Organizations

Aaron Family JCC of Dallas (TX)
Adath Israel (Cincinnati, OH)
Adath Israel of the Main Line (Merion Station, PA)
Adirondack Foundation (Lake Placid, NY)
Arizona Community Foundation
Arkansas Community Foundation
Associated: Jewish Community Federation of Baltimore (MD)
Baltimore Jewish Council (MD)
Birmingham Jewish Federation (AL)
CREATE Foundation (Tupelo, MS)
Dallas Hebrew Free Loan Association (TX)
Dayton Foundation (OH)
East Texas Communities Foundation
East Valley JCC (Chandler, AZ)
Eau Claire Community Foundation (WI)
Erie Community Foundation (PA)
Fargo-Moorhead Area Foundation (ND)
Federated Jewish Charities of Charleston, Inc. (WV)

Regional, State, and Local Organizations—Continued

Birmingham Jewish Foundation (AL)
Brindza Family Fund (Yorktown, VA)
Capin Advisory Services (Grayson, GA)
Cedar Village Foundation (Cincinnati, OH)
Central New York Community Foundation
Chabad at Dartmouth (Hanover, NH)
Charleston Jewish Federation (SC)
Cincinnati Community Kollel (OH)
City Mission of Findlay (OH)
Cleveland Foundation (OH)
Combined Jewish Philanthropies of Greater Boston (MA)
Communities Foundation of Texas
Community Foundation Boulder County (CO)
Community Foundation for Brevard (FL)
Community Foundation for Greater Buffalo (NY)
Community Foundation for Northeast Florida
Community Foundation for Northeast Georgia
Community Foundation for the Greater Capital Region (Albany, NY)
Community Foundation of Acadiana (Lafayette, LA)
Community Foundation of Collier County (FL)
Community Foundation of Greater Birmingham (AL)
Community Foundation of Jackson Hole (WY)
Community Foundation of Northern Colorado
Community Foundation of Sarasota County (FL)
Community Foundation of St. Joseph County (IN)
Community Foundation of Tompkins County (NY)
Community Foundations of the Hudson Valley (Poughkeepsie, NY)
Community Foundation of Western Massachusetts
Congregation Agudat Achim (Schenectady, NY)
Congregation Beth Abraham-Jacob (Albany, NY)
Congregation Beth El (Bangor, ME)
Congregation Beth Shalom (Missoula, MT)
Congregation Bnai Israel (Little Rock, AR)
Congregation Brothers of Israel (Newtown, PA)
Congregation Etz Chaim (Marietta, GA)
Congregation Sha'arei Torah (Cincinnati, OH)
Jewish Community Foundation of Southern Arizona
Jewish Community Foundation of the Minneapolis Jewish Federation (MN)
Jewish Community Foundation, Inc. (Cherry Hill, NJ)
Jewish Community of Louisville Inc. (KY)
Jewish Community Relations Council of Columbus (OH)
Jewish Community Relations Council of Greater Charleston (SC)
Federation for Jewish Philanthropy of Upper Fairfield County (CT)
Federation Housing (Philadelphia, PA)
Flint Jewish Federation (MI)
Foundation for Delaware County (PA)
Foundation for the Charlotte Jewish Community (NC)
Gesher Jewish Day School (Fairfax, VA)
Gratz College (Wyncote, PA)
Greater Miami Jewish Federation (FL)
Greater New Orleans Foundation (LA)
Greater Toledo Community Foundation (OH)
Greensboro Jewish Federation (NC)
Guardians of the Sick (Brooklyn, NY)
Gulf Coast Community Foundation (FL)
Hawaii Community Foundation
Hebrew Congregation of St. Thomas (VI)
Hebrew Day School of Ann Arbor (MI)
Hillel at Temple University (Philadelphia, PA)
Holland Rescue Mission (MI)
Houston Jewish Community Foundation (TX)
Idaho Community Foundation
Indianapolis Jewish Community Relations Council (IN)
JCADA (Rockville, MD)
JCC of Greater Baltimore (MD)
JCRC of Atlanta (GA)
JCRC of Greater Washington (DC)
JCRC/AJC (Detroit, MI)
JEVS Human Services (Philadelphia, PA)
Jewish Alliance of Greater Rhode Island
Jewish Cemeteries of Greater Cincinnati (OH)
Jewish Communal Fund (New York, NY)
Jewish Community Federation of Richmond (VA)
Jewish Community Foundation of Greater Kansas City (KS)
Jewish Community Foundation of Greater MetroWest NJ
Jewish Community Foundation of Greater Phoenix (AZ)
Jewish Community Foundation of San Diego (CA)
Jewish Federation of Greater Harrisburg (PA)
Jewish Federation of Ocean County (NJ)
Jewish Federation of Omaha Foundation (NE)
Jewish Federation of Orange County (CA)
Jewish Federation of Palm Beach County
Jewish Federation of Princeton Mercer Bucks (NJ, PA)
Jewish Federation of Reading/Berks (PA)

Regional, State, and Local Organizations—Continued

Jewish Community Relations Council of Minnesota and the Dakotas
Jewish Community Relations Council of Southern New Jersey
Jewish Community Relations Council of the United Jewish Federation of Tidewater (VA)
Jewish Community Services (Baltimore, MD)
Jewish Endowment Foundation of Louisiana
Jewish Family and Children's Services, San Francisco Bay Area (CA)
Jewish Family and Children's Service (Cherry Hill, NJ)
Jewish Family and Community Services of Pittsburgh (PA)
Jewish Family Service of Colorado
Jewish Family Service of Greater Dallas (TX)
Jewish Family Service of Greater New Orleans (LA)
Jewish Family Service of Metropolitan Detroit (MI)
Jewish Family Service of Somerset, Hunterdon and Warren Counties (NJ)
Jewish Family Services of Northeastern New York
Jewish Federation and Foundation of Northeast Florida
Jewish Federation Association of Connecticut
Jewish Federation in the Heart of New Jersey (South River, NJ)
Jewish Federation of Broward County (FL)
Jewish Federation of Central Massachusetts
Jewish Federation of Chicago (IL)
Jewish Federation of Cincinnati (OH)
Jewish Federation of Cleveland (OH)
Jewish Federation of Cumberland, Gloucester and Salem (NJ)
Jewish Federation of Delaware
Jewish Federation of Eastern Connecticut
Jewish Federation of El Paso (TX)
Jewish Federation of Grand Rapids (MI)
Jewish Federation of Greater Ann Arbor (MI)
Jewish Federation of Greater Atlanta (GA)
Jewish Federation of Greater Charlotte (NC)
Jewish Federation of Greater Chattanooga (TN)
Jewish Federation of Greater Dallas (TX)
Jewish Federation of Greater Des Moines (IA)
Jewish Federation of Greater Hartford (CT)
Jewish Federation of Greater Houston (TX)
Jewish Federation of Greater Indianapolis (IN)
Jewish Federation of Greater Kansas City (KS and MO)
Jewish Federation of Greater MetroWest NJ
Jewish Federation of Greater Naples (FL)
Jewish Federation of Greater New Orleans (LA)
Jewish Federation of Greater Philadelphia (PA)
Jewish Federation of Greater Phoenix (AZ)
Jewish Federation of Greater Pittsburgh (PA)
Jewish Federation of Greater Portland (OH)
Jewish Federation of Sacramento (CA)
Jewish Federation of San Antonio (TX)
Jewish Federation of San Diego County (CA)
Jewish Federation of Somerset, Hunterdon and Warren Counties (NJ)
Jewish Federation of South Palm Beach County (FL)
Jewish Federation of Southern Arizona
Jewish Federation of Southern NJ
Jewish Federation of St. Louis (MO)
Jewish Federation of the Berkshires (Pittsfield, MA)
Jewish Federation of the Bluegrass (Lexington, KY)
Jewish Federation of the Greater San Gabriel and Pomona Valleys (CA)
Jewish Federation of the Lehigh Valley (PA)
Jewish Federation of the Virginia Peninsula
Jewish Federation of Western Massachusetts
Jewish Fertility Foundation (Atlanta, GA)
Jewish Foundation of Greensboro (NC)
Jewish Foundation of Memphis (TN)
Jewish Foundation of Nashville (TN)
Jewish Home of Cincinnati (OH)
Jewish Interfaith Education Council, Inc. (Sioux Falls, SD)
Jewish Kids Groups (Atlanta, GA)
Jewish Long Beach (CA)
Jewish Museum of Maryland
Jewish Nevada
Jewish Silicon Valley
Jewish United Fund (Chicago, IL)
Jewish Volunteer Connection (Baltimore, MD)
Jewish Women's Fund of Atlanta (GA)
JEWISHcolorado
JewishColumbus
JFBP LLC (New York, NY)
Johns Hopkins Hillel (Baltimore, MD)
JVS Career Services (Cincinnati, OH)
Katz JCC (Cherry Hill, NJ)
La Crosse Community Foundation (WI)
Long Island Community Foundation (NY)
Lubavitch of Montgomery County (PA)
Mack's Center for Jewish Education (Baltimore, MD)
Main Line Reform Temple (Wynnewood, PA)
Mayerson JCC (Cincinnati, OH)
Memphis Jewish Federation (TN)
Michigan Hillel
Milwaukee Jewish Federation (WI)
Minneapolis Jewish Federation (MN)

Regional, State, and Local Organizations—Continued

Jewish Federation of Greater Rochester (NY)	N. E. Miles Jewish Day School (Birmingham, AL)
Jewish Federation of Greater Rockford (IL)	Nancy and David Wolf Holocaust and Humanity Center (Cincinnati, OH)
Jewish Federation of Greater Santa Barbara (CA)	New Life Mission (Melbourne, FL)
Jewish Federation of Greater Seattle (WA)	New York Community Trust
Jewish Federation of Greater Toledo (OH)	North Louisiana Jewish Federation
Jewish Federation of Greater Washington (DC, MD, VA)	Ohio Jewish Communities
Jewish Federation of Howard County (MD)	Omaha Community Foundation (NE)
Jewish Federation of Lee and Charlotte Counties (FL)	Open Door Mission (Glens Falls, NY)
Jewish Federation of Madison (WI)	Oregon Community Foundation
Jewish Federation of Metropolitan Detroit (MI)	Parasol Tahoe Community Foundation (NV)
Jewish Federation of Nashville and Middle Tennessee	Philadelphia Foundation (PA)
Jewish Federation of New Hampshire	Philadelphia Friendship Circle (PA)
Jewish Federation of New Mexico	Pikes Peak Community Foundation (CO)
Jewish Federation of Northern New Jersey	Pinellas Community Foundation (FL)

LEAGUE OF AMERICAN ORCHESTRAS
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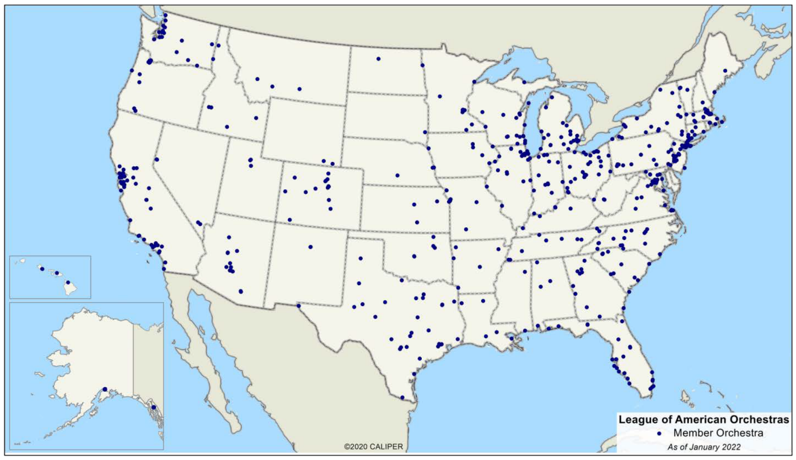
https://americanorchestras.org/

Statement of Simon Woods, President and CEO
League of American Orchestras

The League of American Orchestras thanks the Senate Committee on Finance for holding a hearing dedicated to "Examining Charitable Giving and Trends in the Nonprofit Sector." Given the prolonged duration of the COVID–19 pandemic and its impact on the nonprofit sector, the Committee's hearing is a particularly important opportunity to commit to federal policy action that will respond to the unique and urgent needs of America's nonprofit sector. The League of American Orchestras leads, supports, and champions America's orchestras and the vitality of the music they perform. Its diverse membership runs the gamut from world-renowned orchestras to community groups, from summer festivals to student and youth ensembles, from conservatories to libraries, from businesses serving orchestras to individual participants in symphonic music. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners.

Orchestras deliver on their nonprofit mission in communities nationwide through their vibrant artistry, community partnerships, and commitment to lifelong learning through music. Like thousands of other nonprofits in the arts, education, and human services, and other local organizations, the more than 1,600 American orchestras in communities across the United States are classified as 501(c)(3) tax-exempt organizations. This exemption and the incentive to give private donations are essential to sustaining the capacity of orchestras as employers, community partners, artistic innovators, and providers of lifelong learning. Even as orchestras faced unprecedented challenges throughout the course of the pandemic, their resilience and creativity are evidenced in their ongoing contributions to their communities and innovative strategies to deliver on their nonprofit mission under the most extraordinary circumstances. At the height of COVID–19 restrictions on participation in live performance events, orchestras innovated to provide safe live arts experiences, online performances, and learning opportunities nationwide. Entering the 2020–21 season, orchestras participating in a survey indicated that digital orchestra music was being delivered to at-home audiences in the form of live-streamed concerts (81%), streaming of archival recordings (41%), and new creative content curated specifically for social media (59%)—much of it free of charge (64%). Orchestras continue to offer both live performance events and online offerings, often partnering with caregivers, schools, and community-based organizations to reach in-person and online audiences.



Orchestras are part of the wider nonprofit economic engine that supports workforces and community revitalization amid COVID–19 recovery. Orchestra expenses totaled more than $2.1 billion in 2019. Their economic impact far exceeds that amount as orchestras create jobs, engage in commerce with local businesses, and spur local expenditures on related goods and services. Orchestras support a substantial workforce in communities across the country, engaging a large ensemble of 80 or more musicians for concerts, supported by a creative workforce of composers, administrative staff, stage technicians, ushers, and other professionals. America's adult and youth orchestras employ a dynamic team of teaching artists, community engagement professionals, and expert program staff that deliver lifelong learning through music.

As part of the nonprofit charitable sector, orchestras depend upon private philanthropy and civic support to fuel programs that serve community needs. Orchestras are 501(c)(3) nonprofit organizations, exist in all 50 states, serving virtually every community, with annual budgets ranging from less than $30,000 to more than $100 million. Two thirds of all orchestras have budgets under $300,000. The artistic presentations, educational offerings, and community-based programming generated by the orchestra workforce is supported by a critical combination of public and private support, and not by ticket sales alone. Support from donors across the economic spectrum is essential to making this work possible, as orchestras respond to the needs of communities and form partnerships through education, artistic, economic development, and social service programs. When examining giving to orchestras by individual donors who are not trustees, there is evidence of a broad base of community support for the orchestras' work; each year from 2010 through 2014, roughly 75% of the gifts made by non-trustee individuals were under $250, including 45% under $100, and 30% in the $100–$249 range. Community members with a wide range of economic means find value in their local orchestras and invest in their sustainability.

The COVID–19 pandemic has made charitable giving even more essential. Prior to the onset of the pandemic, private giving accounted for 43% of orchestra revenues. Like for-profit businesses, orchestras suffered severe earned revenue losses that threatened their workforces and their missions. By the summer of 2020—even before the full force of the pandemic was felt—orchestras responding to a League survey reported that private giving accounted for 51% of the revenues that support the orchestras' workforces and mission. While decisions about operations during the pandemic have been closely connected to local and state public health mandates and each orchestra's individual financial situation continues to vary based on the return to live in-person performances, very many continue to suffer significant pandemic-related revenue losses. As infection rates fell on the retreat of the Delta variant, orchestras began to make gains in ticket sales, which provided hope for recovery in the longer term. However, the return of audiences from week to week was uneven, and the onset of the Omicron variant has had a severe and long-reaching impact on orchestras' financial capacity and workforce. Orchestras recently surveyed by the League are projecting ongoing revenue declines and increasing costs. When asked to look ahead to their potential organizational capacity for their fiscal year 2023 operations, only 35% were confident or very confident that philanthropy would sustain at its current level and only 32% were confident or very confident that ticket revenue would recover to its 2019 level.

We urge the Committee to partner with the nonprofit sector to ensure that any future pandemic-related or long-term support for the small business sector is structured so that nonprofit organizations are assured eligibility. Careful attention by Congress to nonprofit eligibility for COVID relief was essential to unlocking access to relief for orchestras and other nonprofit organizations. Federal support has made it possible to keep doors open, utility bills paid, and many workers on payroll, but the duration of the pandemic continues to strain all revenue sources and new and renewed federal assistance is needed. We are extremely grateful for the federal support to-date that has provided essential assistance during such an unprecedented and prolonged public health crisis. Of orchestras responding to a recent League of American Orchestras survey, 92% reported that federal relief had a significant or very significant impact on their ability to maintain their performance and other program activity, and 90% reported that these funds had a significant or very significant impact on their ability to retain their workforce. In addition to Shuttered Venue Operators Grants and dedicated National Endowment for the Arts funding, nonprofit access to forgivable Paycheck Protection Program loans, Employee Retention Tax Credits, enhanced charitable giving incentives, and other forms governmental assistance have helped to see orchestras through the first two years of the pandemic. However, most forms of federal relief expired at the end of 2021, and the need for help persists.

Orchestras and the wider nonprofit sector will be essential contributors to our nation's recovery from the pandemic and must be supported by federal policies that restore and further strengthen the sector nationwide. The League of American Orchestras is closely partnered with the National Council of Nonprofits, Independent Sector, and the Charitable Giving Coalition in support of comprehensive policy action to increase support for the nation's charitable sector, and we support the written recommendations submitted to this committee by those organizations. We urge the Committee to lead Congressional action on policies that are urgently needed, and to seek partnership with the nonprofit sector to ensure that long-term federal leadership proactively supports our nation's charitable and philanthropic sectors.

This Committee can support the following action on active proposals related to tax policy and the nonprofit sector:

- Increase charitable giving by reinstating and making permanent the above-the-line, universal charitable deduction. Federal COVID–19 Relief recognized how important giving incentives are by including in the CARES Act a $300 "universal charitable deduction" available to all taxpayers and extending that provision in the COVID–19 Economic Relief Bill along with allowing up to a $600 deduction for joint filers in 2021. Expanding and making this provision permanent will grow the capacity of the nonprofit arts sector to support communities. While the initial impulse to give comes from the heart, studies have repeatedly shown that charitable giving incentives have a significant impact on how much and when donors contribute.
- Reinstate the ability for individuals who itemize on their taxes to deduct up to 100% of their adjusted gross income for charitable contributions, and the ability of corporations to deduct up to 25% of taxable income.
- Enact the Legacy IRA Act, which would expand the Charitable IRA Rollover to treat donations made by retirees to gift annuity programs as pre-tax income.
- Reinstate the Employee Retention Tax Credit for the fourth quarter of 2021 and extend its duration, modifying nonprofit eligibility beyond the current "gross receipts" test. Orchestras are among the many nonprofit employers that have been counting on quarter four 2021 access to the ERTC to support the decisions they made to bring employees back on the payroll and increase operating capacity to serve their communities.
- Enact the Artist-Museum Partnership Act, which would encourage new gifts by living composers and conductors, including original manuscripts, marked scores, and performance notes. For composers and conductors considering whether to contribute their works and archives to a charitable organization or to make them available to private collectors, the ability to take a fair-market value tax

deduction may be the key incentive that allows the artist to contribute their work to a nonprofit cultural organization.

- Enact the Performing Artist Tax Parity Act of 2021, which would reinstate deductions for unreimbursed employee business expenses. Across occupations, comprehensive tax reform passed into law in 2017 eliminated the opportunity to deduct unreimbursed employee business expenses that exceed 2% of adjusted gross income. For musicians who are employees, this means that the costs of supplies, instruments, professional dues, and other expenses essential to employment are no longer tax-deductible.
- Support dedicated relief resources for nonprofit organizations and their workforce, as proposed in the WORK Now Act.

On behalf of the 1,200 nonprofit orchestras and 400 nonprofit youth orchestras across the nation, the League of American Orchestras is incredibly grateful for the leadership from this Committee to examine ways that the federal government can support our nation's nonprofit sector. Enhanced federal incentives for charitable giving and leadership to support the strength and growth of nonprofit organizations, will support orchestras' workers, operating costs, and mission-critical activity. Thank you for this opportunity to share ways in which this Committee and the broader federal government can increase support for the nonprofit sector.

MICHIGAN NONPROFIT ASSOCIATION
330 Marshall Street, Suite 200
Lansing, MI 48912

U.S. Senate
Committee on Finance

On behalf of the Michigan Nonprofit Association and the more than 50,000 charitable nonprofits in our state, I write in advance of the upcoming hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector," to thank you for your past support for pandemic relief, to update you on the ongoing challenges that nonprofits are facing, and to explain the need for targeted relief within the jurisdiction of the Senate Finance Committee.

In the face of the ongoing public health and economic crises, too many Michigan nonprofits are still struggling to meet increased demands for services, confronting a combination of decreased revenue, expenses that are higher than pre-pandemic, and nonprofit workforce and volunteer staffing shortages. See the results of the National COVID–19 Community Impact Survey [1] administered by the Federal Reserve System. The relief provided by Congress made the difference for many organizations by replacing revenues lost due to declines in individual and corporate giving, fees for service, and canceled fundraising events. The largest of these by far was forgivable loans under the Paycheck Protection Program. More than 6,500 Michigan nonprofits received nearly $1 billion in forgiven PPP loans in 2020 and 2021, according to Small Business Administration data.[2] Those funds saved about 170,000 nonprofit jobs, the SBA reports, which enabled these organizations to serve our communities. However, the PPP program and most other pandemic relief programs have expired, yet the need for, and burdens on, charitable organizations remain great.

With the above context, we bring to your attention three areas of challenges that nonprofits are facing and propose tax policy solutions for your consideration: the lack of resources, the lack of staff, and the lack of volunteers—all of which are essential to advancing nonprofit missions.

Charitable Giving Has Not Kept Up

Charitable giving nationwide has not kept up with need and rising expenses. The 2021 Giving USA report [3] found that individual giving decreased by nearly 0.8 percent in 2020 compared with 2019, when one major donor's contributions are removed from the data. A separate analysis, the Nonprofit Trends and Impacts 2021 from the Urban Institute, found that small nonprofits were under particular stress. "Forty-two percent of organizations with budgets under $500,000 experienced decreased donations in 2020, compared with 29 percent of organizations with budgets

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[1] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*
[2] *https://www.pandemicoversight.gov/data-interactive-tools/interactive-dashboards/paycheck-protection-program.*
[3] *https://store.givingusa.org/pages/annual-subscription.*

of $500,000 or more." Nonprofits that said donations were essential to their revenue stream were also more likely to experience decreased donations in 2020. In Michigan, our data show nonprofits with budgets under $1,000,000 report that financial support generated by individual donations is down 46 percent. With donations cut in half, many of Michigan's small nonprofits find themselves in dire need of financial assistance with only 3 to 6 months of operating cash on hand.

Tax Policy Solutions

In the aftermath of virtually every natural disaster since Hurricane Katrina, Congress has recognized the value of nonprofit relief and recovery efforts by enacting charitable giving incentives that encourage some individuals and corporations to help cover some of the costs of these community-based services. The COVID–19 pandemic and resulting economic crises have certainly qualified as natural disasters and Congress—on a bipartisan basis—swiftly enacted giving incentives for those who itemize and corporations. Recognizing the catastrophic impact of the health and economic crises, Congress went further by enacting, and then expanding and extending, the universal charitable or nonitemizer deduction to ensure that all taxpayers, including those who claim the standard deduction received a tax benefit for giving back to their communities by supporting the work of charitable nonprofits.

As a cosponsor of the Universal Giving Pandemic Response and Recovery Act,[4] S. 618, you know well the benefits of the nonitemizer charitable giving incentive. Like you, the Michigan Nonprofit Association fully endorses this important piece of legislation because it will further promote giving by all American taxpayers—regardless of their income—to give to the work of charitable nonprofits, thereby ensuring that our country retains a strong and independent civil society. It will also provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic. **We ask that you make a strong statement in support of S. 618 during Thursday's hearing and encourage your colleagues to join you in supporting this bill to strengthen our communities.**

Similarly, we ask that you speak in support of extending the two additional disaster-relief giving incentives that expired on December 31, 2021—the provision permitting individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income and the measure allowing corporations to deduct charitable donations up to 25% of taxable income.

Nonprofit Workforce Shortages Crisis

One of the greatest challenges that nonprofits of every type of mission are experiencing is the inability to hire and retain qualified workers. The Federal Reserve survey, referenced above, found that 40% of responding organizations reported that staffing levels are down. As of December 2021, the nonprofit sector was still more than 450,000 short of pre-pandemic levels, according to the report COVID–19 Jobs Update, December 2021[5] from the Center for Civil Society Studies at Johns Hopkins University. The report found, "as of the end of 2021, nonprofits have recovered approximately 72.1% of the jobs estimated to have been lost as of May 2020."

This past fall, the National Council of Nonprofits conducted a survey of the difficulties nonprofits across the country were confronting in retaining staff and filling vacancies. Three out of five (60%) survey respondents reported vacancies of between 10% and 30%, according to the NCN report, The Scope and Impact of Nonprofit Workforce Shortages,[6] published in December. Another 16% reported vacancies greater than 30%. Nationwide, nonprofits explained the causes of the vacancies as salary competition, typically with employers outside the nonprofit sector (79%) and the inability of potential employees to find childcare (23%).

The survey responses of Michigan nonprofits make clear that these workforce challenges are no mere inconveniences; they are hurting the people the organizations serve. A related challenge is payment schedules. A nonprofit healthcare provider shared, "Child Welfare program consists of taking care of foster care children, licensing of foster care homes and we have had 50% turn over within the last year (COVID) and we are not able to find fully licensed social workers to service our mental health and substance abuse/addiction clients." A Marquette human services

[4] *https://www.congress.gov/bill/117th-congress/senate-bill/618/text?q=%7B%22search%22%3A%5B%22s618%22%2C%22s618%22%5D%7D&r=1&s=1.*

[5] *https://ccss.jhu.edu/december-2021-jobs/.*

[6] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

provider explained, “We have significantly raised our entry wage and created a pay scale for staff,” adding, “We continue to not be able to compete with state wages and benefits for the exact same job.”

To another Michigan human service provider, “The most significant problem is granted funds are coming in extremely slow.” In particular, “Granting municipalities and government agencies have not awarded funds for the 2021–2022 program year, which began in July 2021.” Almost needless to say, the nonprofit observed, “This has hindered our ability to hire and extend program hours.”

Finally, a professional at an education-focused nonprofit had this plea: “Please help to support the concerns within [the nonprofit policy priorities letter].[7] As a servant to the community, it is becoming much more difficult to address the needs of our impoverished community with limited staffing. Increasing wages at the beginning of a program year is easy, but the financial struggle is finding funding throughout the program year for new hires. This would be considered a financial, unforeseen cost, which has proven to be difficult to resolve.”

Tax Policy Solutions

The Michigan Nonprofit Association and dozens of Michigan nonprofits joined more than 1,500 organizations from all 50 states in signing onto the recent letter to Congress and the Administration seeking Pandemic and Workforce Shortage Relief for Charitable Nonprofits.[8] Among other things, that letter calls on Congress to address critical staffing shortages at nonprofits by retroactively restoring the **Employee Retention Tax Credit,** as proposed in the bipartisan ERTC Reinstatement Act (S. 3625) and extending this refundable payroll tax credit through 2022. To the address the unique impact of nonprofit workforce shortages on individuals and communities, we ask that you modify nonprofit eligibility under the ERTC beyond the current “gross receipts” test to ensure more nonprofits qualify. We also request that Congress revise the definition of eligible payroll expenses under the ERTC to include childcare and education subsidies to reflect the increased costs charitable organizations experienced as they struggle to maintain or expand services. We believe this improvement is justified because, unlike for-profit employers, tax-exempt nonprofits are not currently able to receive income-tax relief for providing those employee benefits. Our proposal provides a level of tax fairness and parity that does not currently exist.

Volunteers Have Not Returned

A unique aspect of charitable organizations is that they can expand their impact by leveraging the commitment of armies of volunteers who are dedicated to the work of nonprofits in their communities. Pre-pandemic estimates by AmeriCorps[9] indicate that the volunteerism rate in Michigan was 29.4%, contributing 185.9 million hours of service. Nationally and in Michigan, nonprofits reported throughout the pandemic that volunteerism dropped precipitously. Now, however, as many businesses return to public operations, many nonprofits still have not seen their volunteers return to pre-pandemic levels. Volunteering is still depressed—parents have additional family demands, older Michiganders and others from vulnerable populations have safety concerns with returning to in-person volunteering, and in general people are stressed and have reduced time and energy to volunteer.

Tax Policy Solutions

As discussed in the recent nonprofit letter on policy priorities,[10] Congress can incentivize volunteerism by eliminating unfair tax policies. Specifically, we seek an increase in the Volunteer Mileage Rate for nonprofit volunteer drivers to the business rate (58.5 cents/mile) for 2022 and the elimination of the tax on mileage reimbursements up to the business rate. The rapid increase in gas prices means that many nonprofits will need to reimburse their volunteers for driving on the charity's behalf. Yet, those drivers will be forced to pay income tax on any reimbursement

[7] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

[8] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

[9] *https://americorps.gov/sites/default/files/document/Volunteering_in_America_States_508.pdf.*

[10] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

rate greater than the volunteer mileage statutory rate of 14 cents per mile. This existing tax policy, enforced at both the federal and state levels, imposes a disincentive on all but the most well-off volunteers. It is unfair, harmful to the missions of charitable organizations, and must be changed.

American Rescue Plan Act Resources

Before closing, I want to raise an important issue that, while not within the Finance Committee's jurisdiction, is of critical concern to the charitable nonprofits in our state. The American Rescue Plan Act allocated $10.9 billion to governments in Michigan through the Coronavirus State and Local Fiscal Recovery Fund. The federal government is showing tremendous trust that governments closest to the people and their problems are best positioned to decide the best ways to spend their allocated resources to meet local needs. While available for many purposes, the statute and Treasury Department regulations make abundantly clear that governments at all levels may use these funds in partnership with charitable nonprofits to address many challenges in our communities. The Michigan Nonprofit Association is actively engaged in working with state and local officials to ensure the money is properly invested. We ask that you and your Senate colleagues allow these ARPA funds to go to the state and local governments as scheduled so that we may achieve greater impact.

Conclusion

As you consider the issues raised during the Finance Committee hearing, we ask that you reflect in the important, sustaining work that Michigan nonprofits performed throughout the pandemic and recognize that our challenges are far from over. Most for-profit businesses and government offices have or soon will reopen to something amounting to normal business. Most charitable organizations—particularly those addressing the immediate needs of our residents—never had the luxury of closing. Yet, at this stage in the pandemic when demand for nonprofit services remains high, Michigan's nonprofits remain short of resources to meet normal as well as pandemic-related expenses. But we don't just lack adequate resources; our nonprofits lack the staff and volunteers to meet the very high needs, which is resulting in waiting lists, denial of services, and outright closures of local nonprofits. In light of these compelling challenges, we ask that you champion tax-policy solutions, at the hearing and in the Senate, that will restore and enhance the charitable giving incentives and the Employee Retention Tax Credit and remove tax disincentives for volunteers to support the missions of nonprofits in their communities.

Sincerely,

Kelley J. Kuhn
President and CEO

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Statement of Tim Delaney, President and CEO; and David L. Thompson, Vice President of Public Policy

Charitable nonprofits improve our lives, add vitality to our communities, contribute to our local and national economies, and enhance the health of our democracy. But too often, nonprofits are taken for granted and under-resourced, limiting their ability to advance their missions.

The National Council of Nonprofits is the largest network of nonprofits in North America. We focus on the 97% of charitable nonprofits with budgets under $5 million—food banks, neighborhood health clinics, community theatres, domestic violence shelters, senior centers, and more—the organizations whose absence would leave huge voids in their communities. Working with our core network and other collaborative partners, we champion, inform, and connect organizations across the country to get things done for nonprofits and the people and communities they serve.

Overview

Your constituents and our nation benefit from and depend on local charitable nonprofits. Those organizations are still struggling under severe strains as they help our communities through and out of the worst public-health and economic crises of our lifetimes. Congress initially enacted tax policies and programs to build a bridge to get our country, including nonprofits, safely to the other side of the COVID–19 pandemic. But most of those policies and programs expired before safety could be reached, in part because surges of the Delta and Omicron variants prolonged the pandemic, further disrupting lives and nonprofit operations. The continuing difficulties have made the unprecedented—and accelerating—nonprofit workforce shortage even more complex. It is imperative that Congress swiftly restore and revise tax policies and programs that will enable charitable organizations to advance their missions on which so many rely.

Multiple Forces Have Put Charitable Nonprofits Under Severe Strains, Placing Your Constituents at Risk

The public is at risk because nonprofits do not have the resources and support they need to meet the soaring demands for their services. This condition predates the pandemic;[1] the country's dual health and economic crises have severely exacerbated the problem. Too many nonprofits are still struggling to meet increased demands for their services, confronting a combination of both decreased revenues and higher expenses than pre-pandemic levels. Consequently, extreme burnout of paid and volunteer staff has created a dangerous nonprofit workforce shortage. The public cannot afford for Congress to ignore this growing crisis.

The Public's Needs Exceed Nonprofit Capacity

We urge you to consider these alarming trends:

- More than 75 percent of the 2,237 charitable nonprofits responding to an August 2021 nationwide survey by the Federal Reserve reported that demand for their services had increased over pre-pandemic levels. See Perspectives from Main Street: The impact of COVID–19 on communities and the entities serving them,[2] Federal Reserve Community Development Staff, Oct. 12, 2021 (separate run of charitable nonprofit responses).
- Almost half (45 percent) noted a decrease in their ability to meet those needs.
- A quarter (26 percent) of the more than a thousand charitable nonprofits from all 50 states responding to a late 2021 nationwide survey by the National Council of Nonprofits reported that demand for their services had so exceeded their capacity that they had to create a waiting list that is more than a month long, with some organizations highlighting that some clients have had to wait years to receive services. Another 21 percent said they do not have a wait list—because, without adequate resources, they are no longer accepting new clients or referrals and have had to turn people away. (Combined, that is 46 percent unable to meet demands.) See *The Scope and Impact of Nonprofit Workforce Shortages,*[3] National Council of Nonprofits, December 2021.
- These results are consistent with what state associations of nonprofits across the country have documented through their own statewide surveys[4] of the pandemic's impact on nonprofits.

The Federal Reserve survey also documented significant financial strains on charitable nonprofits:[5]

- Expenses had increased for nearly three-quarters of the responding organizations—*and that was before inflation shot up to the current rate of 7.9 percent.*
- Individual donations and corporate donations were each down for nearly half of the nonprofits—and *significantly* down for nearly a fourth.

Those results are consistent with other recent reports. The Nonprofit Trends and Impacts 2021[6] Research Report from the Urban Institute found that 40 percent of organizations reported losses in total revenue for 2020. Smaller nonprofits were under heightened stress. "Forty-two percent of organizations with budgets under $500,000 experienced decreased donations in 2020, compared with 29 percent of organizations with budgets of $500,000 or more." Nonprofits that said donations were

[1] *https://www.nonprofitimpactmatters.org/site/assets/files/1/nonprofit-impact-matters-sept-2019-1.pdf.*

[2] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*

[3] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

[4] *https://www.councilofnonprofits.org/data-how-the-pandemic-and-economic-crises-are-affecting-nonprofits.*

[5] *https://fedcommunities.org/data/main-street-covid19-survey-2021/.*

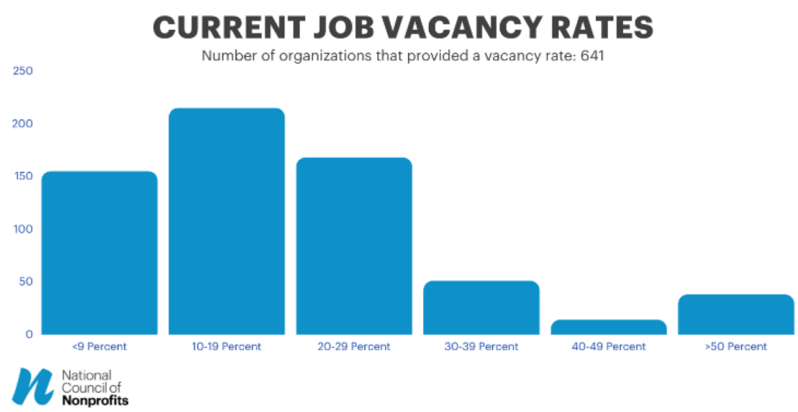
[6] *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*

essential to their revenue stream were also more likely to have experienced decreased donations in 2020.[7]

Unprecedented—and Dangerous—Nonprofit Workforce Shortages

One of the greatest challenges that nonprofits of every type of mission are experiencing across the country is the inability to hire and retain qualified workers. The Federal Reserve survey, referenced above, found that staffing levels were down for more than 40 percent of the nonprofits surveyed. Indeed, as recently as December the nonprofit sector was still more than 450,000 short of pre-pandemic levels, according to the COVID–19 Jobs Update, December 2021[8] from the Center for Civil Society Studies at Johns Hopkins University. The report found, "as of the end of 2021, nonprofits have [only] recovered approximately 72.1% of the jobs estimated to have been lost as of May 2020."

Yet what was initially considered to be a challenge for nonprofits has become a crisis due to burdens of the pandemic era. The crisis needs rapid remedy. To better understand the extent and causes for nonprofits confronting difficulties in retaining staff and filling vacancies, the National Council of Nonprofits conducted a survey late last year. A third of nonprofits (34%) reported job vacancy rates of between 10% and 19%, and a troubling 26% responded that they had job openings for 20% to 29% of their positions. Another 16% percent reported vacancies greater than 30 percent. See *The Scope and Impact of Nonprofit Workforce Shortages,*[9] December 2021.



Although nonprofits nationwide reported various factors creating the difficulties, they identified two predominant causes:

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[7] At first glance, two reports suggest that giving increased in 2020 compared with 2019. But when removing MacKenzie Scott's outsized contributions ($6 billion) to 460 organizations from the data in the 2021 Giving USA report *(https://ccss.jhu.edu/december-2021-jobs/)*, individual giving decreased by nearly 0.8 percent. The Fundraising Effectiveness Project [FEP] *(https://afpglobal.org/FundraisingEffectivenessProject)* report suggests that the numbers of donations and donors rose in 2020. However, Ben Miller, Chief Analytic Officer of Donor Trends and Vice Chair of the FEP, explained when interviewed, "An important nuance to the Fundraising Effectiveness Project's reports is that we are measuring the average increase in donors and dollars. For 2020, this could be misleading because, while in total there were more donors and dollars as compared to 2019, the majority of organizations actually saw decreases in both. While donations increased by 10.6 percent on average, the median result was actually a 6.6 percent decrease in donations. Donors increased by 7.3 percent on average, but the median was down by 7.6 percent. This means that the majority of nonprofits saw declines in both donations and donors in 2020, even though more people donated more money." *See The Data Show What We Already Know: Nonprofit Helpers Need Help (https://www.nytimes.com/2022/03/10/business/economy/cpi-inflation-february-2022.html#:~:text=Inflation%20Rises%20to%207.9%20Percent%20for%20February%202022%20%2D%20The%20New%20York%20Timeshttps://www.councilofnonprofits.org/thought-leadership/the-data-show-what-we-know-the-nonprofit-helpers-need-help)*, Amy Silver O'Leary, National Council of Nonprofits, Nov. 23, 2021 (emphasis added).

[8] *https://ccss.jhu.edu/december-2021-jobs/.*

[9] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

1. *Salary competition*—four out of five nonprofits (79%) identified it as a factor. Even those startling numbers do not tell the full story. Frontline practitioners from across the country shared their observations about the reasons behind the growing nonprofit workforce shortages, why they matter in the real world, and how it affects their communities.

   - North Carolina human service professional: “Pay is the biggest challenge, as many organizations (for profit and nonprofit) are competing for the same groups of people,” and “we can’t always compete with salary, benefits, and hours.”
   - Texas human service provider: other employers “are basically poaching from nonprofits that cannot offer the higher pay.”

   Survey participants noticed a distinct change in who is luring nonprofit employees away:

   - Massachusetts nonprofit: direct “competition from retail sector.”
   - New York City early childhood center: the City’s Department of Education has its own shortages, and “as a result, they are poaching our staff to fill their vacancies.”
   - Rhode Island family services provider: “The inability to compensate staff adequately, based on their education and experience, often leads to high staff turnover rates, low workplace morale, and high levels of burnout among providers.”
   - Maryland nonprofit about government contract/grant problems: “We cannot provide the same level of service, let alone meet current increased demands due to COVID, without an increase that allows us to cover increased costs, the need to raise salaries and bring on new staff.” Consequently, “our ability to meet the demand for our services continues to decrease every year.”

   The result is that nonprofits are suffering a brain and experience drain as longtime professionals leave the sector—and the missions they support—because the under-resourced nonprofits cannot compete. That drain, and the inability of nonprofit to replace staff, results too often in the public facing delayed or complete loss of services.

2. *Inability to find child care*—a quarter (23%) identified it as a factor. Nonprofit and other employers also face a significant challenge in attracting and retaining job candidates due to the lack of availability of high-quality, affordable, and available child care. Because women comprise 66 percent of the nonprofit workforce, they are disproportionately impacted by the lack of child care, in part due to the outsized caregiving burden they carry for their households and communities. As employers and, in many cases, child care providers, charitable nonprofits are deeply concerned that the lack of child care and equitable wages are impediments to all; as one expert said on a recent Federal Reserve webinar, “There is no recovery of the economy without child care.” Maintaining quality, safety and enriching environments that nurture children is costly. Yet, nonprofit child care providers are reluctant to pass on higher costs to families because the price of child care already makes this critical service out of reach for too many families. Therefore, we urge Congress to provide robust funding to expand access to high quality child care that is affordable, dependable, and accessible, and supports livable wages and skill-based training for nonprofit child care professionals.

A Precipitous Decline in Volunteerism

The brewing crisis of the nonprofit workforce shortage is not just with paid nonprofit employees. The shortage extends to nonprofits’ volunteer workforce.

Many types of nonprofits rely on volunteers, such as drivers delivering meals to homebound individuals. Yet volunteerism has fallen dramatically since the pandemic hit, thus limiting the ability of organizations to continue providing pandemic relief and recovery. The pandemic kept, and is keeping, many long-term volunteers away as they stopped donating their time and talent out of concern for public health (their own, and to avoid becoming a carrier who could unknowingly transmit COVID–19).

For a variety of reasons, volunteers have not been returning. Parents have additional family demands, older individuals and others from vulnerable populations have safety concerns with returning to in-person volunteering, and in general people are stressed and have reduced time and energy to volunteer.

An old tax policy is also prohibiting volunteers from returning and new volunteers from stepping forward. Nonprofits have begun hearing from more people who used to donate their time that they cannot afford to volunteer because of the high cost of gas. This week, the average price of a gallon of gasoline is $4.43, following Russia's invasion of Ukraine, according to *USA Today.*[10] When Congress established the statutory 14 cents per mile as the Volunteer Mileage Rate in 1997, the average cost of gasoline was $1.23, according to the U.S. Department of Energy.[11] Yet for a quarter century, Congress has never gone back to increase that mileage rate. See generally *Charitable Volunteers Mileage Reimbursement,*[12] Congressional Research Service, RS20296, May 30, 2008.

When volunteers are no longer available, the only choices for charitable nonprofits are to stop providing the services or try to hire people to fill cover those shifts. As a North Carolina human services nonprofit reported, "We are finding that volunteers are not returning, resulting in a need to hire for positions previously filled by volunteers." But that returns to the challenge of raising adequate funds. As a Minnesota arts organization wrote, "Because history museums grew out of volunteer-only organizations (and many still are volunteer-only), we have had difficulty as a field finding sufficient funding streams to hire the staff we truly need to operate."

Profound Risks for the Public When Nonprofits Cannot Operate at Full Capacity

Participants in the National Council of Nonprofits workforce survey made clear their views that the toll on community members' lives caused by workforce shortages is significant and regrettable. Among the nonprofits reporting at least a one-month waiting list for services is a domestic violence shelter in Montana. Another organization reported having as many as 1,500 children on their waiting list. "We are having difficulty filling child care positions—educators/teachers," a Vermont human service provider shared. "This has caused us to close classrooms, consolidate and put burden and pressure on our existing staff," they lamented, adding "the alternative is not serving families who need child care."

Many organizations explained that, due to job vacancies, they had been forced to limit services and reduce the number of individuals they could assist. One stated, "We do not keep a wait list, but we serve less than 5% of those calling for shelter or rent and utility assistance." Another acknowledged, "We have had to close for business several times during the past 9 months due to being at capacity."

The human toll extends beyond people needing services; it often includes nonprofit employees and volunteers working beyond their sustainable capacities to ensure services continue to be provided to as many people as possible. As an Illinois nonprofit leader observed when completing the survey, "The stress of covering vacant positions on top of low pay is overwhelming," with "some staff covering responsibilities for three other positions simultaneously." So, being forced to cut back is not due to a lack of will or dedication. Rather, there are simply human limitations. A human services provider in Oregon shared, "Our frontline workers are exhausted and under stress." Added another, "The nature of the work we do in providing support to trauma survivors and the hours we operate take a toll on staff during the best of times." They continued with insights on the reality of our times: "During a pandemic, where staff have to juggle personal and professional challenges in new and wildly different ways, the rates of burnout are exponential."

In summary, nonprofits facing job vacancies reported a number of coping techniques ranging from "cutting programing to focus on client service delivery" to having to "turn people away many times in a month." Some described how they adjusted days and times to continue providing at least some services. Still others have been forced to refuse added caseloads. Too many organizations in the nonprofit community maxed out on their capacity long ago. Something must be done, for nonprofits and for the public relying on those nonprofits.

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[10] *https://www.usnews.com/news/us/articles/2022-03-13/average-us-gas-price-spikes-79-cents-over-2-weeks-to-4-43.*

[11] *https://www.energy.gov/eere/vehicles/fact-888-august-31-2015-historical-gas-prices.*

[12] *https://www.everycrsreport.com/files/20080530_RS20296_50efe63efb9b50d43b510d7db6c4b7555051709f.pdf.*

The Context: How We Got Here

- Every one of your constituents benefits from the work of America's 1.3 million charitable nonprofits, whether directly or indirectly: nonprofits protect, feed, heal, shelter, educate, inspire, enlighten, nurture, and console.
- When the pandemic first struck, small and midsize nonprofits embedded in local communities mobilized to offer critical support. They were determined, innovative, and—ultimately—exhausted doing so much more, for so many more people, for much longer than anyone imagined.
- The pandemic initially wiped out more than 1.6 million nonprofit jobs. Simultaneously, the public's reliance on and demand for nonprofit services skyrocketed for hundreds of thousands of nonprofits while revenues plummeted for most, straining too many organizations past capacity and jeopardizing delivery of drastically needed services.
- In 2020, recognizing how heavily your constituents were and would be relying on charitable nonprofits to provide relief, Congress supported the work of nonprofits by making charitable nonprofits eligible for Paycheck Protection Program ("PPP") loans, including nonprofits in the Employee Retention Tax Credit ("ERTC"), providing (limited) unemployment insurance relief, and enacting enhanced charitable giving incentives.
- But then Congress closed the PPP program in May 2021, ended unemployment relief to workers and employers before Labor Day, retroactively stopped the ERTC program at the end of September, and let all of the enhanced charitable giving incentives expire on December 31. In hindsight, Congress ended those programs prematurely, because the COVID–19 pandemic—fueled by the Delta and Omicron variants that surged after most of the relief programs ended—continues to ravage our nation's health, economy, and recovery.
- Consequently, the sudden removal of relief programs—while pandemic-related economic struggles continue—has hit nonprofits especially hard, once again threatening the ability of nonprofits to operate and deliver services on which your constituents and our nation rely.

How to Move Forward: Bipartisan Policy Solutions Exist

The solutions identified below are neither novel nor entirely our own. Rather, more than 1,500 charitable nonprofits from all 50 states and the District of Columbia have signed the attached joint Nonprofit Community Letter on the Pandemic and Workforce Shortage Relief for Charitable Nonprofits.[13]

Those 1,500+ organizations call on Congress and the President to enact legislation that would help charitable nonprofits overcome three obstacles limiting their ability to advance their missions of helping people in local communities: lack of resources, lack of staff, and lack of volunteers. That letter identifies multiple policy solutions within each category. The Senate Finance Committee has direct jurisdiction on the seven enumerated solutions below.

Generate Resources to Meet the Needs of Relief and Recovery

Charitable giving is down, and giving incentives enacted by Congress have expired. For charitable nonprofits to have the resources they need to continue to operate and provide needed disaster relief and recovery in local communities, Congress needs to restore and improve tax incentives for charitable giving. We call on Congress to give priority to the three disaster relief charitable giving incentives that expired at the end of 2021:

1. Renew the universal charitable (non-itemizer) deduction at least through 2022 and improve it by significantly increasing the cap on the deduction, as proposed in the bipartisan Universal Giving Pandemic Response and Recovery Act (S.618/H.R.1704).
2. Reinstate the 100% AGI cap on individual donations to permit individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income.
3. Reinstate the 25% income tax cap on corporate donations to allow corporations to deduct charitable donations up to 25% of their taxable income.

[13] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Action%20Alert%20%20Nonprofit%20Pandemic%20and%20Workforce%20Shortage%20Relief&utm_medium=email.*

Address Critical Staffing Shortages

Charitable organizations need relief from the devastating and well-documented nonprofit workforce shortage.[14] Specifically, we ask that Congress reinstate and improve the Employee Retention Tax Credit (ERTC) in these ways:

4. Retroactively restore the ERTC, as proposed in the bipartisan ERTC Reinstatement Act (H.R. 6161/S. 3625) and extend this refundable payroll tax credit through 2022.
5. Modify the ERTC eligibility for nonprofits beyond the current "gross receipts" test to ensure more nonprofits qualify as a way to address the impact of the unique impact of nonprofit workforce shortages on individuals and communities.
6. Revise the definition of eligible payroll expenses under the ERTC to include child care and education subsidies to reflect the increased costs charitable organizations experienced as they have struggled to maintain or expand services. We believe this improvement is justified because, unlike for-profit employers, tax-exempt nonprofits are not currently able to receive income-tax relief for providing those employee benefits. This proposed revision provides a level of tax fairness and parity that does not currently exist.

Promote the Return of Volunteers to Nonprofits

Congress has not adjusted the Volunteer Mileage Rate since setting it a quarter century ago. On behalf of volunteers, the people they serve, and charitable nonprofits who depend on volunteers willing to make a difference in the lives of others, we urge Congress:

7. Eliminate the unfair tax policy that for too long has effectively discouraged individuals from volunteering and replace the 14 cents/mile volunteer mileage rate by matching it to the business rate (currently 58.5 cents/mile). Also, eliminate the income tax on mileage reimbursements by nonprofits up to the business rate so individuals are not penalized for volunteering.

Conclusion

The charitable nonprofit sector is the backbone of our communities. We continue to face unprecedented challenges as we assist you and the American people in providing pandemic relief and economic recovery. We call on Congress to take action now to alleviate the many challenges addressed in this Statement. The tax policies proposed here, in the attached nonprofit community letter, and by charitable organizations throughout the country are sought for the benefit of the people we collectively serve. The networks of the National Council of Nonprofits stand ready to answer questions and work with you to advance solutions to our communities needs.

Attached: Nonprofit Community Letter on the Pandemic and Workforce Shortage Relief for Charitable Nonprofits, *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Action%20Alert%20%20Nonprofit%20Pandemic%20and%20Workforce%20Shortage%20Relief&utm_medium=email* (signed by more than 1,500 nonprofits from all 50 states and DC).

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Statement of Randall L. Rutta, Chief Executive Officer

Chairman Wyden, Ranking Member Crapo, and Members of the Committee on Finance, on behalf of the National Health Council (NHC), I am writing to share our perspective on charitable giving trends and potential policy solutions to strengthen the nonprofit sector, one of the most vital employment sectors, creating good-paying jobs and providing needed services and supports to the American public.

[14] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-workforce-shortages-report.pdf.*

Background on the NHC

Created by and for patient organizations more than 100 years ago, the National Health Council (NHC) brings diverse organizations together to forge consensus and drive patient-centered health policy. We promote increased access to affordable, high-value, sustainable health care. Made up of more than 145 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient organizations. Other members include health-related associations and nonprofit organizations including the provider, research, and family caregiver communities; and businesses representing biopharmaceutical, device, diagnostic, generic drug, and payer organizations. To learn more about the National Health Council, visit *https://www.nationalhealthcouncil.org.*

We thank you for the opportunity to submit our statement ahead of the Congressional hearing and look forward to providing further support to the nation's nonprofit sector, particularly the patient advocacy community.

Importance of the Patient Advocacy Community

Charitable nonprofits are essential to our country's economic and social well-being. The COVID–19 emergency has highlighted the importance of nonprofit organizations as they have risen to the challenge of responding to the health and other trials the pandemic has presented. The patient advocacy community has particularly stepped-up, providing services and information to people with chronic conditions and disabilities as well as advocating for the health and safety needs of their communities. However, the pandemic has also presented many challenges for patient organizations. These include reduced giving, cancellation of fundraising events and meetings that are necessary for organization's financial health, a decreased workforce, loss of volunteers, and more. As we emerge from the pandemic, we urge Congress to undertake efforts to both help the nonprofit community recover from the effects of the last two years as well as address issues affecting nonprofits that existed before the pandemic.

Charitable Giving Incentives

Incentives for charitable giving are needed more than ever as nonprofits respond to the health and economic crises and will be critical in the future as patient organizations play an essential role in recovery efforts.

In 2018 the standard deduction was doubled, which resulted in a significant decrease in the number of taxpayers choosing to itemize their deductions. This, in turn, disincentivized charitable giving, resulting in reduced nonprofit revenue. Individual giving declined 3.4% in 2018 adjusted for inflation, according to Giving USA 2019: The Annual Report on Philanthropy for the Year 2018.[1] We are grateful for the temporary increase in the charitable giving deduction above the standard deduction in COVID relief legislation. This increase incentivizes giving by small donors, who are the backbone of many patient advocacy organizations. We urge Congress and the Administration to renew the universal charitable (deduction for non-itemizers and significantly increase the cap on the deduction, as proposed in the bipartisan Universal Giving Pandemic Response and Recovery Act (S.618/H.R.1704). Similarly, we call on policymakers to extend two additional disaster-relief giving incentives that expired on December 31, 2021—the provision permitting individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income and the measure allowing corporations to deduct charitable donations up to 25% of taxable income.

Addressing the Nonprofit Workforce

The nonprofit sector is the third largest employment sector in the country. The economic toll of COVID–19 is clear and has a direct impact on the ability of nonprofits to play the vital role they fulfill in our communities. As of December 2021, there are 450,000 fewer employees in the nonprofit sector as charitable organizations report significant difficulties retaining staff and filling vacancies. The impact of the shortages can be seen in virtually every community as nonprofits are forced to restrict needed services, institute waiting lists, or close operations entirely. We call on Congress to retroactively restore the Employee Retention Tax Credit, as proposed in the bipartisan ERTC Reinstatement Act (H.R. 6161/S. 3625), extend this refundable payroll tax credit through 2022. We also ask Congress to modify nonprofit eligibility beyond the current "gross receipts" test and definition of eligible payroll expenses to include child care and education subsidies to reflect the increased costs charitable organizations experienced as they struggle to maintain or expand services

[1] *https://givingusa.org/.*

to meet local needs throughout the health and economic crisis. In addition, we ask that any relief package should also include core components of the Work Opportunities and Resources to Keep Nonprofit Organizations Well Act, or WORK NOW Act (S. 740/H.R. 1987), which would infuse funds into the nonprofit community across the country to get people back to work and make sure nonprofits are able to meet the needs of the populations they serve.

Conclusion

The NHC would like to thank the Committee on Finance for their support of the nonprofit community. The NHC is ready to work with Congress in any capacity necessary on the issues pertaining to the health of nonprofits. Thank you for the opportunity to provide the perspective of the NHC and, by extension, millions of people with chronic conditions and disabilities in the U.S.

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March 16, 2022

The Honorable Ron Wyden
Chair
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Wyden, Ranking Member Crapo, and Members of the Committee:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write in regard to your March 17 hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector."[1] As a 501(c)(4) nonprofit organization, NTU is directly affected by Congressional efforts to change or reform the federal government's policy treatment of charitable giving—as is NTU's research arm NTU Foundation, a 501(c)(3) nonprofit organization.

NTU has also advised Members of Congress and their staff on a variety of tax policy issues, including the tax treatment of nonprofit organizations, for decades, and we work with dozens of organizations across the ideological spectrum that share our nonprofit status. In other words, NTU has expertise in the subject of the Committee's hearing and would be significantly impacted by any proposals that arise from this hearing.

Specifically, we have endorsed a number of proposals that we believe would make it easier for nonprofit organizations to carry out their missions and for Americans to freely and robustly support those missions. We have also done extensive policy research and issue advocacy with regards to conservation easement tax deductions, a possible topic at the Committee's hearing, and have also

NTU Reform Recommendations

Notwithstanding our concerns with proposals to retroactively increase taxes and penalties in the administration of certain charitable deductions (outlined further below), NTU has offered and/or endorsed several policy proposals in recent years that we believe have bipartisan potential in the nonprofit and charitable sectors.

Each of these proposals would either make it easier for nonprofits to carry out their important missions, either by making it easier for Americans to contribute to nonprofit organizations of their choice or by making it easier for nonprofits to comply with a complex and ever-changing tax code.

When Congress considered extending the charitable contribution deduction for non-itemizers last year, NTU shared some of our concerns and instead pointed to our support for the bipartisan Everyday Philanthropist Act from Sens. Ben Sasse (R–

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[1] United States Senate Committee on Finance. "Examining Charitable Giving and Trends in the Nonprofit Sector." March 2022. Retrieved from: *https://www.finance.senate.gov/hearings/examining-charitable-giving-and-trends-in-the-nonprofit-sector* (accessed March 15, 2022.)

NE) and Tammy Baldwin (D–WI), and Reps. Vern Buchanan (R–FL) and Tom Souzzi (D–NY).

As we wrote in December 2021:

> While this provision [to provide a charitable contribution deduction for non-itemizers] may be well-intentioned, NTU believes there are better alternatives to encourage charitable giving in a fiscally responsible manner. One such framework could be the one proposed in the Everyday Philanthropist Act (H.R. 4585), introduced by Representatives Vern Buchanan (R–FL) and Tom Souzzi (D–NY). Similar to Flexible Spending Accounts (FSAs) that allow Americans to fund medical expenses on a pre-tax basis, this bipartisan legislation would allow workers to utilize Flexible Giving Accounts up to $2,700 of their annual pre-tax earnings. As NTU President Pete Sepp explained, "the legislation draws upon the successful infrastructure that has already been established to support Flexible Spending Accounts, which were created by law in 1978 and have subsequently been refined by IRS guidance." While there are likely other alternatives to the $300 above line deduction, this is one option that would support charitable giving and protect taxpayers' privacy.[2]

Indeed, our support for the Everyday Philanthropist Act—which is sponsored by a Member of this Committee, Senator Sasse—is based in part on the ongoing need to protect the privacy of donors and taxpayers, as we noted in an August 2020 support letter for the legislation:

> Additionally, [the Everyday Philanthropist Act] augments administrability in the sense that if they so choose, employers can provide part of the framework for taxpayers to make donations to charities whether in place of, or as a complement to, any other tax-deductible contributions they may wish to make on their returns. The Flexible Giving Accounts envisioned in the bill should effectively be less susceptible to audit because of the documentation trail they establish, giving some peace of mind to those taxpayers who opt solely for making gifts directly out of their employer-provided compensation.[3]

NTU also believes that Congress could improve tax administration and compliance for the nonprofit sector, a particularly important consideration given many nonprofit organizations are small and/or resource-constrained.

In January 2022, we wrote to Members of this Committee on ways Congress could simplify and reform the filing process surrounding Form 990.[4] We recommended:

- Revisiting the cash flow and asset filing thresholds for the Form 990–EZ and the long Form 990, which have not been adjusted for more than a decade, and pursuing additional opportunities to improve the filing process for nonprofit organizations;
- Examining the rationale for both expanded and reduced filing requirements for different areas of the nonprofit sector, where treatment is sometimes unequal;
- Giving specific consideration to a comprehensive IRS report on improving the taxpayer experience—required by the Taxpayer First Act—that would, if certain reforms are enacted, directly affect nonprofit organizations; and
- Examining state-level developments affecting nonprofits that could afford opportunities for harmonization and cooperation at the federal level.

Conservation Easement Deductions

One area of charitable giving tax policy the Committee may re-explore today (and highlighted in a JCT document prepared for the hearing) encompasses the Section 170(h) deduction. As part of NTU's longstanding work on tax administration, we have amassed considerable experience in this area that may interest the Committee. Why should this be the case, given the deduction's relatively minor revenue impact?

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[2] Lautz, Andrew; and Yepez, Will. "Not All Tax Extenders Are Created Equal—2021." NTU, December 1, 2021. Retrieved from: *https://www.ntu.org/publications/detail/not-all-tax-extenders-are-created-equal-2021#h.qe2pfuaeq87q.*

[3] Sepp, Pete. "Letter of Support for the Everyday Philanthropist Act." NTU, August 10, 2020. Retrieved from: *https://www.ntu.org/publications/detail/letter-of-support-for-the-everyday-philanthropist-act.*

[4] Sepp, Pete. "Congress Should Explore Form 990 Reform, Simplification in 2022." NTU, January 31, 2022. Retrieved from: *https://www.ntu.org/publications/detail/congress-should-explore-form-990-reform-simplification-in-2022.*

For one, the Section 170(h) deduction has ably fulfilled bipartisan Congressional intent by encouraging conservation of land and historic structures through private management—a far more cost-efficient method for taxpayers than outright federal ownership of these properties. Second, and more important from our perspective, despite continuous statements from the IRS and Members in support of 170(h), detrimental actions against the deduction have spoken louder than benign words.[5]

Over our 50-plus-year history, we have encountered instances of tax law enforcement against small groups of taxpayers that have an outsized impact on the entire filing population (*e.g.,* the expansion of summons authority as well as designating cases for litigation). In our recent memory, none have exceeded the collateral damage inflicted on the system of tax administration more than the Service's pursuit of what it calls "syndicated conservation easement transactions" since the issuance of a listed transaction notice in 2016. This includes:

- **Retroactivity.** Although issued in late 2016, Notice 2017–10 has been the basis of a near-100 percent IRS audit rate of partnership-based conservation easement transactions, some dating back many years prior. Audits are, by their nature, backward-looking, yet they are normally confined to establishing whether a taxpayer faithfully complied with laws, rules, and other guidance that were firmly anchored in place during the year for which the examination was launched. Current IRS audits of partnership easements are often based on the Service's shifting interpretations of laws and rulings, some of them upending decades of established understanding of how Section 170(h) deductions should be structured. Some legislation in Congress would effectively ratify and validate this flawed approach.
- **Arbitrary Litigation Strategies.** Going with the Service's extremely aggressive assertion of retroactive application of its shifting positions in audits has been its similarly fluid stance in court. The resulting caseloads have now strained to the breaking point a tax jurisprudence system that is simultaneously bearing the administrative fallout of the pandemic. The first wave of IRS lawsuits challenging Section 170(h) deductions tended to center on the appraised value of the conservation easements underlying the taxpayers' claims. Yet, after a string of court losses where the government fatuously argued zero or minimal value to all the easements under scrutiny, further waves of IRS litigation made far more exotic arguments against "foot faults" involving highly technical details of easement agreements themselves—details which the entire conservation and historic preservation communities had long regarded as settled features. As David Wooldridge, an attorney representing taxpayers in a conservation easement case, *Belair Woods, LLC,* noted, "Proceeds clauses similar to the one in *Belair* appear in most conservation easement deeds that were granted prior to IRS raising this issue in *Rose Hill,* and many granted afterwards. These include the so-called syndicated conservation easements, but they also include most easements that would be considered 'traditional.' The Service's position therefore would invalidate easement deductions for a majority of existing conservation easements, both traditional and 'syndicated.'"[6] This should be unacceptable to thoughtful policymakers.
- **Taxpayer Rights Reversals.** Throughout NTU's history, we have witnessed the development of IRS tactics intended to target one perceived problem which evolved into widespread use. In its zeal to scrutinize taxpayers claiming 170(h) deductions, the IRS has trampled on key protections that NTU has actively championed for many years, including supervisor approval requirements for penalty determinations, due process for appraisers, access to independent administrative appeals, the acknowledgment of facts process for information document requests, confidentiality of communication between taxpayers and advisors, and Administrative Procedure Act (APA) conventions in crafting guidance. As a leading advocate of no fewer than five significant taxpayer protection bills signed into law since 1988, NTU implores you to consider this rising toll on the

[5] For background, *see:* Hickman, Bryan. "Environmental Tax Deduction at Risk Due to Overzealous IRS." NTU, July 29, 2019. Retrieved from: *https://www.ntu.org/publications/detail/environmental-tax-deduction-at-risk-due-to-overzealous-irs; See also:* Sepp, Pete. "Shortsighted: How the IRS's Campaign against Conservation Easement Deductions Threatens Taxpayers and the Environment." NTU, November 29, 2018. Retrieved from: *https://www.ntu.org/publications/page/shortsighted-how-the-irss-campaign-against-conservation-easement-deductions-threatens-taxpayers-and-the-environment.*

[6] Reilly, Peter J. "Conservation Easements: Is IRS Burning the Forest in Order to Save It?" *Forbes,* August 5, 2020. Retrieved from: *https://www.forbes.com/sites/peterjreilly/2020/08/05/conservation-easementsis-irs-burning-the-forest-to-save-it/?sh=617850624904* (accessed March 16, 2022.)

good work of your predecessors in establishing procedural balance for enforcement of our tax laws.

Even as they criticized so-called "syndicated transactions" in an August 2020 report both the Chair and Ranking Member of this Committee recognized Section 170(h) as "an important tool for the preservation of our environment" and "a program that's critical to preserving open lands."[7] If these statements are to hold true today, then Congress can make calibrations to the law that will uphold 170(h), protect taxpayers, and serve the government's long-term interests. A media account in December 2021 seemed to indicate that lawmakers might consider 170(h) changes that would be prospective in nature; if true, this would represent major progress toward a rational response. Other steps, which we have often recommended, include:

- A legislative branch directive for the IRS to develop "safe harbor" guidance surrounding easement deduction structures (a process the National Taxpayer Advocate has recommended in reports to Congress, and which Treasury Secretary Yellen expressed interest in pursuing during her 2021 confirmation hearing);
- Creation of an expert panel to resolve complex questions of valuation in easements, modeled after a similar body created to provide clarity for donations of art;
- Follow-on legislation that would clarify and require vigorous implementation of the Taxpayer First Act of 2019, including a taxpayer's right to appeal; and
- Where possible, adopting by statute the recommendations for conservation easement deductions offered through the IRS Advisory Council through a detailed report in 2009. Given the recent *Oakbrook* ruling, and the prospect for litigation in this space the government may lose, Congress might better focus its attention on clarifying directly the terms of a legitimate easement agreement as well as subjecting the IRS to prudent notice and comment requirements than seeking punitive legislation driven by prospective (and tenuous) revenue scores.

As we have written before, solving the administrative issues that have arisen under Section 170(h) in a fair, responsible, and consistent manner would serve the government, taxpayers, and practitioners far better than retroactive, punitive legislation giving cover to an IRS that has lost all perspective on this area of law—and, in the process, threatening taxpayers who will never even contemplate claiming conservation easements.

We appreciate your consideration of NTU's research and reform recommendations on the important subject of your March 17 hearing. Should you have any questions, we are at your service.

Sincerely,

Pete Sepp
President

Andrew Lautz
Director of Federal Policy

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The Honorable Margaret Wood Hassan
U.S. Senate
Washington, DC 20510

March 14, 2022

Dear Senator Hassan:

Thank you for your ongoing leadership and advocacy for the nonprofit sector in New Hampshire. In advance of the upcoming Senate Finance hearing, "Examining Charitable Giving and Trends in the Nonprofit Sector," I am writing to update you on the ongoing challenges that nonprofits are facing, and to explain the need for targeted relief within the jurisdiction of the Senate Finance Committee.

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[7] United States Senate Committee on Finance. "Finance Committee Releases Report on Syndicated Conservation-Easement Transactions." August 25, 2020. Retrieved from: *https://www.finance.senate.gov/chairmans-news/finance-committee-releases-report-on-syndicated-conservation-easement-transactions* (accessed March 16, 2022.)

As you know, relief packages that you helped secure sustained New Hampshire's nonprofit sector during the pandemic. The largest of these by far was forgivable loans under the Paycheck Protection Program. According to Small Business Administration data,[1] nearly 1,500 New Hampshire nonprofits received almost than $270 million in forgiven PPP loans in 2020 and 2021.

However, PPP has expired and the nonprofit sector is now operating within an environment of increased demand for services, a significant labor shortage including a lack of volunteers, and increased operational costs. Given this context, we ask you to support policy solutions outlined herein to support nonprofits in the Granite State.

Nonitemizer Charitable Giving Incentive

We are grateful for your co-sponsorship of the Universal Giving Pandemic Response and Recovery Act,[2] S. 618. The NH Center for Nonprofits fully endorses this important piece of legislation because it will further promote giving by all taxpayers, regardless of their income, to donate to charitable nonprofits. **We ask that you consider speaking in support of S. 618 during Thursday's hearing and encourage your colleagues to join you in supporting this bill.**

Similarly, we ask that you advocate for the extension of two additional disaster-relief giving incentives that expired on December 31, 2021: the provision permitting individuals who itemize to deduct charitable donations up to 100% of their adjusted gross income; and the measure allowing corporations to deduct charitable donations up to 25% of taxable income.

Employee Retention Tax Credit

Again, thank you for sponsoring the ERTC Reinstatement Act, S. 3625. The NH Center for Nonprofits joined more than 1,500 organizations from all 50 states in signing onto the recent letter to Congress and the Administration seeking Pandemic and Workforce Shortage Relief for Charitable Nonprofits.[3] Among other things, that letter calls on Congress to address critical staffing shortages at nonprofits by supporting your bill. To the address the impact of nonprofit workforce shortages, we ask that you modify nonprofit eligibility under the ERTC beyond the current "gross receipts" test to ensure more nonprofits qualify. We also request that Congress revise the definition of eligible payroll expenses under the ERTC to include child care and education subsidies to reflect the increased costs charitable organizations experienced as they struggle to maintain or expand services.

Volunteerism Incentives

As discussed in the recent nonprofit letter on policy priorities,[4] the decline of volunteerism is having an adverse impact on the work of nonprofits. Pre-pandemic estimates by AmeriCorps indicate that the volunteerism rate in New Hampshire was 35.7%, contributing 36.6 million hours of service. Nationally and in New Hampshire, nonprofits reported that volunteerism dropped precipitously. Congress can help incentivize volunteerism by increasing the **Volunteer Mileage Rate** for nonprofit volunteer drivers to the business rate (58.5 cents/mile) for 2022 and eliminate the tax on mileage reimbursements. The existing policy of low and taxable reimbursements continue to hamper nonprofits as they seek to restore and incentivize volunteerism.

Please do not hesitate to reach out to the NH Center for Nonprofits if we can support you in your advocacy and leadership for policies that strengthen the nonprofit sector that, in turn, strengthen New Hampshire communities.

Sincerely,

Kathleen Reardon, CEO

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[1] *https://www.pandemicoversight.gov/data-interactive-tools/interactive-dashboards/paycheck-protection-program.*

[2] *https://www.congress.gov/bill/117th-congress/senate-bill/618/text?q=%7B%22search%22%3A%5B%22s618%22%2C%22s618%22%5D%7D&r=1&s=1.*

[3] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

[4] *https://www.councilofnonprofits.org/sites/default/files/documents/nonprofit-pandemic-workforce-shortage-relief-letter.pdf?utm_source=sendinblue&utm_campaign=Nonprofit%20Advocacy%20Updates%20%20February%2022%202022&utm_medium=email.*

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March 17, 2022

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

We write to you on behalf of our nearly 300 member organizations representing the nonprofit sector urging you to renew and increase the Universal Charitable Deduction.

The Nonprofit Alliance is a broad coalition of charities and firms that serve nonprofit organizations. We share a common purpose to promote, protect, and strengthen the nonprofit sector.

Charitable deductions incentivize giving and encourage individuals to support causes at a higher level than they otherwise would. This enables vital organizations to generate funds necessary to their much- needed mission-focused work.

- The urgent and immediate need is an **extension of the Universal Charitable Deduction for 2022.**
- Then, ultimately, we need the **passage of S. 618** (and its companion House bill H.R. 1704) to renew the Universal Charitable Deduction and increase its cap to one-third of the standard deduction.

Swift enactment of these measures will provide donors with the certainty they need to continue giving, encourage giving as a critical part of our vibrant society, and ensure charities across our nation continue to receive the funds necessary to serve their communities and fulfill their philanthropic missions. As Chairman Wyden has often noted about the deduction, "It's a lifeline."

The charitable deduction that is currently available for 2022 is inadequate, as it applies only to those taxpayers who itemize their expenses. Recent estimates suggest only about 12 percent of all taxpayers itemize, yet the nonprofit sector depends on many more individuals to support their causes. This is a missed opportunity to incentivize the other 88% of middle-class American taxpayers.

The temporary Universal Charitable Deduction that was enacted in 2020 and extended through 2021 was a step in the right direction. It democratized charitable giving. In 2020, a year of exceptional challenge and need, individual Americans gave over $324 billion to charitable causes (Giving USA 2021), generosity that was stimulated by the charitable deduction for *all* taxpayers.

This effective deduction expired at the end of 2021, resulting in uncertainty for some of the most generous Americans and the charities that rely on their donations to deliver vital services to their communities.

With the expiration, charities can no longer use the universal charitable deduction as an incentive for their donors, posting on their websites or including in their mailings that non-itemizers can claim either a $600 (if married and filing jointly) or $300 (for single taxpayers) deduction for charitable contributions.

Time is of the essence. The nonprofit sector relies on the deduction as an incentive and every day that goes by without a universal deduction is a missed opportunity. Now already in the second half of March, charities have lost nearly three months of 2022 when the deduction could have inspired giving. With shortages in envelopes and other paper products, nonprofits are also facing long lead times, working today in late March on mailings that are not expected to reach potential donors until late June. Without the extension of the Universal Charitable Deduction now, these charities will not be able to make the most of the $600 and $300 universal deduction open to non-itemizers.

If Congress does in fact extend the Universal Charitable Deduction retroactive to January 1, 2022, and the extension becomes law, charitable organizations can immediately publicize the existence of the deduction. That can work quickly for websites and social media but not, of course, for mail (which remains a linchpin of most fundraising programs).

We recognize this is very different from the corporate entities that also saw tax deductions expire on December 31, 2021. Most of the corporate provisions could wait to be enacted as late as April 2023 when most companies will file their 2022 tax returns and still enjoy the maximum benefit of the extension (provided Congress follows its customary practice of making the enactment retroactive to January 1, 2022). However, a nonprofit's ability to benefit depends on using the deduction as an incentive now.

Very simply, the nonprofit community does not have the luxury of time on its side. We need the immediate extension of the Universal Charitable Deduction.

We greatly appreciate the strong bipartisan support this legislation has received, led by Senators Lankford and Coons. On the Finance Committee, under the leadership of Senator Lankford, support for S. 618 has been joined by Senators Scott, Stabenow, Cortez Masto, Hassan, and Brown. A total of six members of the Finance Committee and in aggregate 16 Senators—eight Democrats and eight Republicans—have signed onto this important legislation. Clearly this issue is not defined by party and is supported by wide swaths of Americans.

We strongly commend the leadership of these 16 Senators and urge the Senate to join them to renew the Universal Charitable Deduction—and pass S. 618—as soon as possible.

The Nonprofit Alliance stands ready to offer any and all assistance to get this important measure enacted into law.

Respectfully,

Mark Micali
Vice President, Government Affairs

PHILANTHROPY COLORADO
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Philanthropy Colorado urges Congress to make charitable giving incentives available to all.

Thank you for the opportunity to submit a statement to be included in the record for the Senate Finance Committee Hearing: "Examining Charitable Giving and Trends in the Nonprofit Sector," held on March 17, 2022.

Philanthropy Colorado leads and serves the diverse network of more than 100 charitable foundations and organizations investing in nonprofits across our state. These nonprofits provide critical services and create jobs as they strive to achieve their missions. We join with others in urging Congress to ensure all taxpayers have access to incentives for giving generously to nonprofits working on behalf of communities throughout Colorado and beyond.

Colorado-based foundations provide more than $1 billion annually to support charitable organizations and the people and causes they serve—everything from education to health to basic needs. While foundations provide critical financial resources to these nonprofits, individuals have historically given an even greater amount—more than $5 billion a year in Colorado according to IRS data we tracked before the passage of the 2017 federal tax law reduced the pool of itemizing taxpayers.

We urge you to restore and expand the recently expired "above-the-line" charitable deduction for the almost 90% of taxpayers who now take the higher standard deduction instead of itemizing on their returns. Making these taxpayers eligible for even a small temporary deduction for donations made during the pandemic had a measurable impact on giving by less wealthy households. According to data collected by our national partners in the Charitable Giving Coalition, small donations jumped significantly when this tax break was announced in 2020.

While many factors contribute to generosity, tax breaks have long provided an important motivation for giving at every level. A charitable giving incentive for non-itemizers will engage a broader range of donors and help them establish a pattern of giving that is likely to continue. The tax deduction is particularly important at this time when the need for nonprofit services has surged. We urge you to support policies that encourage charitable giving long into the future.

Thank you for considering our comments. Please let us know if you have any questions about the role of foundations and nonprofits, the work they do to address systemic issues, and their substantial economic impact.

Joanne Kelley
Chief Executive Officer

STATEMENT SUBMITTED BY WILLIAM J. SNAPE, III, PROFESSOR, AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW; DIRECTOR, PROGRAM ON ENVIRONMENTAL AND ENERGY LAW; AND SENIOR COUNSEL, CENTER FOR BIOLOGICAL DIVERSITY

Over the past several years, I have closely examined many conservation easements authorized under the federal tax code. My findings were published in 171 *Federal Tax Notes,* Volume 171 (May 10, 2021) at 875-885.

In response to repeated criticisms of conservation easements by Senator Daines of Montana, I have modified the above-cited report to demonstrate that **conservation easements are a very valuable tool in our national conservation toolbox.** Frequently, conservation easements are the only tool we possess to protect fish, wildlife, plants, and habitat on private lands.

While there are legislative reforms I could suggest, they would take diligent time and cautious effort to legislate. *Picking easy scapegoats is neither effective nor accurate in this complex policy arena.* The number of "bad" conservation easements appears quite low. What is unknown is how much the federal government pays for specific easement gifts under Section 170 of the federal tax code, and how those properties are maintained or managed in perpetuity. We urge greater involvement by the U.S. Geological Service (and its mapping and data services), as well as greater transparency by the Internal Revenue Service. Some reforms could occur administratively with no new statutory language.

Thank you for considering this comment as well as the excerpt of our 2021 report, immediately below.

Recently, federal conservation easements under the tax code have come under attack by some federal legislators. Some easement donations have been criticized for lack of conservation value. Other easement donations have been criticized because of the corporate and financial structure of the donor(s), which itself leads to and/or further contributes to the more general problem of valuation of these donations, and whether and to what extent the U.S. Internal Review Service (IRS) approvals of over-valued appraisals from easement donors is leading to fraudulent or unfair transactions that drain the Federal Treasury.

In consideration of these issues, we asked a fundamental threshold question—how effective are conservation easements at protecting wildlife and important habitat? Because financial data relating to tax returns and specific parcels of land and water are confidential pieces of information, this study does not analyze the cost-effectiveness of the current federal tax easement system. However, our examination of several hundred conservation easements leads us to conclude that the federal tax deduction tool for conservation easements is a very valuable piece of the overall national conservation puzzle.

Looking at the value of conservation easements in protecting biological diversity, including wildlife and habitat, a team of researchers at the American University Washington College of Law studied 201 conservation easements across the country. The study's focus was on the biological baseline reports ("BBRs") prepared for all conservation easements. Produced by outside experts, the BBRs provide detail, including maps and photographs, of all the resources (broadly defined) on the property and layout the conservation purposes that will define the conservation easement.

This study did not include any analysis on the tax value of the proposed land donations or any investigation into the type of donor landowners and donee land trusts. We focused on whether private land conservation easements significantly contribute to wildlife and habitat protection and whether this tool is as effective as federal and state statutes designating public land protections.

The final results revealed that conservation easements are a tool that effectively contributes to conservation, particularly the protection of wildlife and habitat.

Table 1: Overall Grades—Assessment Includes Wildlife, Habitat, and Other Factors

Overall Rating	# of BBRs	% of BBRs
1—Fully meets conservation goals	118	58.7%
2—Adequately meets conservation goals	74	36.8%

Table 1: Overall Grades—Assessment Includes Wildlife, Habitat, and Other Factors—Continued

Overall Rating	# of BBRs	% of BBRs
3—Inadequately meets or sets conservation goals	8	4.0%
Ranked between 1 and 2	1	0.5%
Grand Total	201	100.0%

Where, When, and How Big Are the Easements?

1. *Year of Establishment*

The BBRs spanned from 2002 to 2018. The majority of easements reviewed, 184 of 201, or 91.5%, were established between 2013 and 2018.

Table 2: When Were the BBRs Completed?

Year	# of BBRs	% of BBRs
2002	1	0.5%
2005	1	0.5%
2007	1	0.5%
2010	1	0.5%
2011	1	0.5%
2012	6	3.0%
2013	16	7.9%
2014	31	15.4%
2015	25	12.4%
2016	49	24.4%
2017	54	26.9%
2018	9	4.5%
(blank)	6	3.0%
Grand Total	201	100.0%

2. *Acreage*

Our study found a wide variety of donation sizes, ranging from thousands of acres to just 10. The study also found no correlation between the size of donation and the potential value of the conservation easement.

Table 3: Size of Donation

Maximum acreage (largest donation)	**3,223**
Average acreage	379
Median acreage	179
Minimum acreage (smallest donation)	10

3. *States*

The conservation easements are distributed over seventeen states. Predominantly, the easements in this study are located in eleven states in the Southeast United

States and represent 192, or 95.5% of the BBRs studied. Nine easements, or 4.5%, are located in the West and Midwest.

Table 4: State Distribution of BBRs in This Study

State	# of BBRs	% of BBRs	Total Acres Donated
AL	22	10.9%	4,683
CA	1	0.5%	557
FL	8	4.0%	3,295
GA	117	58.2%	39,657
IL	1	0.5%	102
KY	1	0.5%	180
LA	2	1.0%	1,184
MS	2	1.0%	274
NC	8	4.0%	1,784
NV	1	0.5%	812
OK	1	0.5%	80
OR	1	0.5%	61
SC	9	4.5%	3,438
TN	16	7.9%	13,469
TX	4	2.0%	2,020
VA	2	1.0%	1,297
WV	5	2.5%	2,823
Grand Total	201	100.0%	75,715

4. Landowners—Donors

One piece of information gathered was donor type, although the assessment did not undertake to determine the value of an easement based on its donor type. Differences between these types of donors were beyond the scope of this study. The statistic relevant to this review found that most BBRs in the study were syndicated owners. Also, there was no correlation between the assigned rankings and any of these donor types.

Table 5: BBRs Prepared for LLC Property Owners or Individual/Family Landowners

Donor Business Entity Type	# of BBRs	% of BBRs
LLC	172	85.6%
LLLP	1	0.5%
LLP	1	0.5%
LP	1	0.5%
Unknown [1]	26	12.9%

Table 5: BBRs Prepared for LLC Property Owners or Individual/Family Landowners—Continued

Donor Business Entity Type	# of BBRs	% of BBRs
Grand Total	201	100.0%

[1] Of the 26 "unknown" donor types, 4 appeared to be individual landowners, however the actual number of individuals vs. syndicated donors in our data set was not definitively confirmed.

5. Land trusts—Donees

The tax regulations require the conservation easement holder to be a "qualified organization," a government agency or charitable organization, capable of holding the land in trust. Nine land trust organizations hold most of the 201 conservation easement donations in this study.

6. Conservation Easement Authorization Type

To claim a tax deduction under § 170(h), Congress has required donation for any of the four following conservation purposes: (1) outdoor recreation and/or education for the general public; (2) protection of habitat; (3) preservation of delineated open space; and (4) historic preservation. Table 6 contains a breakdown of the easements' conservation purposes.

Table 6: Conservation Easement Authorization Type—Conservation Purposes

Authorization Under 170(h)	# of BBRs
(i) outdoor recreation, education	18
(ii) natural habitat/wildlife	175
(iii) (I) scenic enjoyment	133
(iii) (II) federal, state or local govt policy	187
(iv) historic area or structure	29

While many of the easements listed more than one of these conservation purposes in the BBRs, this study focused solely on whether the easements' value in promoting the conservation of natural habitat and wildlife. The evaluation of an easement reflects the analysis of the easement's potential to preserve land based on the following four elements effectively:

- Natural habitat and wildlife.
- Present and future economic uses of the easement.
- Consideration of the impacts of climate change on the easement.
- Monitoring and compliance mechanisms.

This study did not focus on easements with conservation purposes primarily for historic areas or outdoor recreation unless there was an impact on the easement's effectiveness to protect natural habitat and wildlife because of those purposes.

More than 87% of the BBRs reviewed in our study indicate the easement's primary purpose is to protect specific habitats for wildlife. The preservation goals were similar across the easements, despite the variety of ecosystems or size of the donation.

The following two tables display the rankings for habitat protection and wildlife conservation. The grades assigned are "1" if the protections are outstanding, "2" if the protections are average, and "3" if the protections are deficient. The three questions considered were: (1) if the purpose of the easement appears to be at least in part for wildlife and/or habitat; (2) if the easement appears to actually conserve wildlife and/or protect habitat; and (3) whether the wildlife conservation and/or habitat protection value is independently validated in the easement by a government agency or scientific association.

Table 7: Habitat Protection Ranking

Grade	# of BBRs	% of BBRs
1	148	73.6%
2	47	23.4%
3	6	3.0%
Grand Total	201	100.0%

Together, the 195 BBRs ranked "1"and "2" suggest that of the conservation easements in this study, 97% have included potentially effective protections for natural habitats.

Table 8: Wildlife Conservation Ranking

Grade	# of BBRs	% of BBRs
1	107	53.2%
2	84	41.8%
3	10	5.0%
Grand Total	201	100.0%

Our overall grading of the BBRs for wildlife conservation produced 107, or 53.2%, with superior protection in place. Together, BBRs rated "1" and "2" account for 191, or 95% of the study's easements. Where BBRs listed wildlife protection as a core value, over half provided specific management plans and lists of species to protect, including but not limited to endangered or threatened species, both federal and state. In the BBRs, five primary themes emerged: (1) promote healthy forests, (2) preserve water quality, (3) protect threatened or endangered species, (4) preserve unique habitats, and (5) establish or extend wildlife migration corridors.

Summary and Recommendations

Based on the final data and results of the study, our initial conclusion that conservation easements do contribute to wildlife and habitat conservation objectives is supported. Conservation easements are valuable tools that allow agreements between a landowner and land trust to set aside land for protection, land that might otherwise be sold for development, for urbanization, or commercial enterprises.

Conservation easements are valuable mechanisms where, if the BBRs and contracts are written to effectively address the conservation values the easement is trying to protect, natural habitat and wildlife will win lasting protection.

While Congress could clarify valuation and other public interest considerations more specifically, the IRS possesses significant administrative authority to correct some of the problems identified over the last decade. These reforms include the following:

- The IRS should immediately issue guidance, and perhaps rulemaking, on how it will analyze and enforce donations of conservation easements in terms of: (a) transparent and improved appraisal processes of the donations; (b) transparency of and requirements for biological baseline reports including public monitoring to ensure that the donation has an adequate conservation purpose; (c) creation of a "safe harbor" provision to help landowners decipher the proper "extinguishment clause" language to use in in easement deeds.
- Instead of focusing solely on syndicated conservation easement donations, Congress and the IRS should examine the overall structure of conservation easement creation, including accurate and transparent appraisals, independent affirmance of the conservation value of each conservation easement, and perhaps most importantly, clarifying the IRS's new role as a *de facto* federal land agency.
- While most 170(h) conservation easements appear legitimate, the potential for abuse is high and the public should only be paying for conservation easements through the tax code that tangibly increase conservation, help mitigate

the existential threats of climate change, and address inequity and environmental justice. It seems sensible to desire greater involvement by the U.S. Geological Service in evaluating and monitoring these easements [2] as part of this country's larger goal to protect and conserve more land and water by 2030 and beyond.[3]

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Statement of Laurie Baskin, Director of Advocacy

Theatre Communications Group thanks the Senate Committee on Finance for holding a hearing dedicated to "Examining Charitable Giving and Trends in the Nonprofit Sector." Given the prolonged duration of the COVID–19 pandemic and its impact on the nonprofit sector, the Committee's hearing is a particularly important opportunity to commit to federal policy action that will respond to the unique and urgent needs of America's nonprofit sector.

Theatre Communications Group (TCG), the national organization for theatre, leads for a just and thriving theatre ecology. Since its founding in 1961, TCG's constituency has grown from a handful of groundbreaking theatres to over 700 Member Theatres and affiliate organizations and over 7,000 Individual Members. Through its programs and services, TCG reaches over one million students, audience members, and theatre professionals each year. TCG offers networking and knowledge-building opportunities through research, communications, and events, including the annual TCG National Conference, one of the largest nationwide gatherings of theatre people; awards grants and scholarships to theatre companies and individual artists; advocates on the federal level; and through the Global Theater Initiative, TCG's partnership with the Laboratory for Global Performance and Politics, serves as the U.S. Center of the International Theatre Institute. TCG is North America's largest independent trade publisher of dramatic literature, with 18 Pulitzer Prizes for Drama on the TCG booklist. It also publishes the award-winning American Theatre magazine and ARTSEARCH®, the essential source for a career in the arts. TCG believes its vision of "a better world for theatre, and a better world because of theatre" can be achieved through individual and collective action, adaptive and responsive leadership, and equitable representation in all areas of practice.

Theatres deliver on their nonprofit mission in communities nationwide through their vibrant artistry, community partnerships, and commitment to lifelong learning. Like thousands of other nonprofits in the arts, education, and human services, and other local organizations, theatres in communities across the United States are classified as 501(c)(3) tax-exempt organizations. This exemption and the incentive to give private donations are essential to sustaining the capacity of theatres as employers, community partners, artistic innovators, and providers of lifelong learning. Even as theatres faced unprecedented challenges throughout the course of the pandemic, their resilience and creativity are evidenced in their ongoing contributions to their communities and innovative strategies to deliver on their nonprofit mission under the most extraordinary circumstances. At the height of COVID–19 restrictions on participation in live performance events, theatres innovated to provide safe live arts experiences, online performances, and learning opportunities nationwide. Theatres continue to offer both live performance events and online offerings, often partnering with caregivers, schools, and community-based organizations to reach in-person and online audiences.

Theatres are part of the wider nonprofit economic engine that supports workforces and community revitalization amid COVID–19 recovery. Theatre expenses totaled

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[2] *See* U.S. Geological Service, *Major Update for America's Inventory of Parks and Other Protected Areas* (July 9, 2019). (A new version of the Protected Areas Database of the U.S., or PAD-US, has major federal, state and easement updates, an easier-to-use data structure, new web services, and mapping capabilities.

[3] *See, e.g.,* Center for Biological Diversity, *Biden Executive Order Pushes Protection of 30% of America's Land, Oceans* (January 27, 2021). (A year ago the Center launched Saving Life on Earth, a plan that calls for a $100 billion investment to save species and the creation of new national monuments and parks, wildlife refuges and marine sanctuaries so that 30% of U.S. lands and waters are fully conserved and protected by 2030 and 50% by 2050).

more than $2.1 billion in 2020. Their economic impact far exceeds that amount as theatres create jobs, engage in commerce with local businesses, and spur local expenditures on related goods and services. Theatres support a substantial workforce in communities across the country, employing 93,000 theatre workers in 2020.

As part of the nonprofit charitable sector, theatres depend upon private philanthropy and civic support to fuel programs that serve community needs. Theatres are 501(c)(3) nonprofit organizations, exist in all 50 states, serving virtually every community, with annual budgets ranging from less than $70,000 to more than $50 million. The artistic presentations, educational offerings, and community-based programming generated by the theatre workforce is supported by a critical combination of public and private support, and not by ticket sales alone. Support from donors across the economic spectrum is essential to making this work possible, as theatres respond to the needs of communities and form partnerships through education, artistic, economic development, and social service programs. Individual donors who are not theatre trustees collectively proved to be the largest contributed income source for theatres.

The COVID–19 pandemic has made charitable giving even more essential. Prior to the onset of the pandemic, contributed revenue generally covered about 42% of expenses for the largest theatres and about 70% for the smallest. Like for-profit businesses, theatres suffered severe earned revenue losses due to the pandemic that threatened their workforces and their missions. While decisions about operations during the pandemic have been closely connected to local and state public health mandates and each theatre's individual financial situation continues to vary based on its ability to return to live in-person performances, many continue to suffer significant pandemic-related revenue losses. As infection rates fell on the retreat of the Delta variant, theatres began to make gains in ticket sales, which provided hope for recovery in the longer term. However, the return of audiences from week to week was uneven, and the onset of the Omicron variant has had a severe and long-reaching impact on theatres' financial capacity and workforce. Theatre managers are deeply concerned about their bottom lines for fiscal year 2023 and 2024.

We urge the Committee to partner with the nonprofit sector to ensure that any future pandemic-related or long-term support for the small business sector is structured so that nonprofit organizations are assured eligibility. Careful attention by Congress to nonprofit eligibility for COVID relief was essential to unlocking access to relief for theatres and other nonprofit organizations. Federal support has made it possible to keep doors open, utility bills paid, and many workers on payroll, but the duration of the pandemic continues to strain all revenue sources and new and renewed federal assistance is desperately needed. We are extremely grateful for the federal support to-date that has provided essential assistance during such an unprecedented and prolonged public health crisis. In addition to Shuttered Venue Operators Grants and dedicated National Endowment for the Arts funding, nonprofit access to forgivable Paycheck Protection Program loans, Employee Retention Tax Credits, enhanced charitable giving incentives, and other forms of governmental assistance have helped to see theatres through the first 2 years of the pandemic. However, most forms of federal relief expired at the end of 2021, and the need for help persists.

Theatres and the wider nonprofit sector will be essential contributors to our nation's recovery from the pandemic and must be supported by federal policies that restore and further strengthen the sector nationwide. Theatre Communications Group is partnered with the National Council of Nonprofits, Independent Sector, and the Charitable Giving Coalition in support of comprehensive policy action to increase support for the nation's charitable sector, and we support the written recommendations submitted to this committee by those organizations. We urge the Committee to lead Congressional action on policies that are urgently needed, and to seek partnership with the nonprofit sector to ensure that long-term federal leadership proactively supports our nation's charitable and philanthropic sectors.

This Committee can support the following action on active proposals related to tax policy and the nonprofit sector:

- Increase charitable giving by reinstating and making permanent the above-the-line, universal charitable deduction. Federal COVID–19 Relief recognized how important giving incentives are by including in the CARES Act a $300 "universal charitable deduction" available to all taxpayers and extending that provision in the COVID–19 Economic Relief Bill along with allowing up to a $600 deduction for joint filers in 2021. Expanding and making this provision permanent will grow the capacity of the nonprofit arts sector to support communities.

While the initial impulse to give comes from the heart, studies have repeatedly shown that charitable giving incentives have a significant impact on how much and when donors contribute.

- Reinstate the ability for individuals who itemize on their taxes to deduct up to 100% of their adjusted gross income for charitable contributions, and the ability of corporations to deduct up to 25% of taxable income.
- Enact the Legacy IRA Act, which would expand the Charitable IRA Rollover to treat donations made by retirees to gift annuity programs as pre-tax income.
- Reinstate the Employee Retention Tax Credit for the fourth quarter of 2021 and extend its duration, modifying nonprofit eligibility beyond the current "gross receipts" test. Theatres are among the many nonprofit employers that have been counting on quarter four 2021 access to the ERTC to support the decisions they made to bring employees back on the payroll and increase operating capacity to serve their communities.
- Enact the Artist-Museum Partnership Act, which would encourage new gifts by living playwrights, including original manuscripts, set designs, and other original materials. For theatre artists considering whether to contribute their works and archives to a charitable organization or to make them available to private collectors, the ability to take a fair-market value tax deduction may be the key incentive that allows the artist to contribute their work to a nonprofit cultural organization.
- Enact the Performing Artist Tax Parity Act of 2021, which would reinstate deductions for unreimbursed employee business expenses. Across occupations, comprehensive tax reform passed into law in 2017 eliminated the opportunity to deduct unreimbursed employee business expenses that exceed 2% of adjusted gross income. For theatre artists this means that the costs of travel to auditions or a travel agent and other expenses essential to employment are no longer tax-deductible.
- Support dedicated relief resources for nonprofit organizations and their workforce, as proposed in the WORK Now Act.

On behalf of the over 700 Member Theatres and affiliate organizations and over 7,000 Individual Members across the nation, Theatre Communications Group is deeply grateful for the leadership from this Committee to examine ways that the federal government can support our nation's nonprofit sector. Enhanced federal incentives for charitable giving and leadership to support the strength and growth of nonprofit organizations, will support theatres' workers, operating costs, and mission-critical activity. Thank you for this opportunity to share ways in which this Committee and the broader federal government can increase support for the nonprofit sector.

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On behalf of United Philanthropy Forum (the Forum), a membership organization of over 90 regional and national philanthropy-serving organizations or PSOs, we thank you for your support shown to the philanthropic and charitable sector during the COVID–19 pandemic. As the largest and most diverse network in American philanthropy, United Philanthropy Forum holds a unique position in the social sector to help increase philanthropy's impact in communities across the country. Our members, who represent more than 7,000 foundations and other funders, work to make philanthropy better. Through our members and their networks, we reach almost every state and district, promoting a courageous philanthropic sector that catalyzes a just and equitable society where all can participate and prosper.

We appreciate the opportunity to highlight the value of the nonprofit sector and our recommendations on policies that encourages charitable giving.

Extraordinary Response of Philanthropy Associations and Networks to COVID–19

As we mark the 2-year anniversary of the COVID–19 pandemic, it seems an appropriate moment to share how philanthropy-serving organizations (PSOs)—the regional and national philanthropy associations and networks that comprise the United Philanthropy Forum network[1]—have responded to the crisis. In short, the response has been extraordinary.

Over the past 2 years, regional and national PSOs have acted in truly astounding ways to ensure that philanthropy was being as effective and impactful as possible in helping our communities tackle a global health pandemic, demonstrating a powerful level of nimbleness, adaptability and flexibility. PSOs quickly engaged in new public-private partnerships, led and managed new collaborative funds, advocated for philanthropy and nonprofits in COVID–19 legislation, provided a strong voice of accountability to push philanthropy to respond to the pandemic in the most equitable ways possible and much more.

A new Forum report, The COVID–19 Crucible,[2] details PSOs' response to the pandemic and offers lessons for the field to inform how we respond to future crises. The Forum uses "PSO" as something of a catch-all term to describe a diverse and dynamic group of philanthropy associations and networks that bring funders together with a focus on a geographic region, funding issue, identity/population group or philanthropic practice. The report offers many examples of PSOs' COVID–19 response efforts; here's a sampling:

- ABFE held funder briefings on COVID–19 relief for Black businesses and focused its annual conference, which shifted to virtual, on a range of critical challenges facing Black communities amid the pandemic, including redlining, the racial wealth divide, and ensuring relief efforts reach Black communities.
- Minnesota Council on Foundations moved quickly to establish the Minnesota Disaster Recovery Fund, partnering with the Saint Paul & Minnesota Foundation to raise and distribute more than $11 million to more than 1,700 nonprofit organizations and more than 3,000 small businesses.
- Philanthropy Northwest, in partnership with the state of Washington and major food banks in the state, established the WA Food Fund to respond to the growing food crisis as a result of COVID–19. The fund raised more than $14 million from 60 philanthropic institutions and 9,000 individual donors.
- Philanthropy Ohio partnered with the Ohio Department of Education to establish the Collaborative Fund for Educating Remotely and Transforming Schools. The fund supported projects to help schools in the state improve remote education practices and in particular address inequitable circumstances related to remote education during the COVID–19 crisis.

The list goes on and on and on. The report identifies some key learnings that have implications for the broader philanthropy sector. Many of the learnings relate to trends that were already happening pre-COVID but were greatly accelerated during the pandemic: PSOs have become more transformative and less transactional; PSOs are placing a more central focus on racial equity and on holding the field accountable on equity issues; PSOs are displaying new kinds of bold leadership in partnerships with government and the private sector; PSOs have a renewed focus on networks, as the pandemic was a case study in the power of networks in responding to a crisis—and the need to build those networks in advance. Philanthropic leaders are grateful for the partnership of government, nonprofit, and business partners over the past 2 years.

Need for Charitable Giving Will Continue Beyond Pandemic

The Forum urges Congress to **immediately reinstate and expand the temporary universal charitable giving deduction** that expired at the end of 2021. This charitable deduction to non-itemizers at $300 for individual and $600 for couples filing jointly along with the suspension of adjusted gross income (AGI) limitations for cash gifts and increase in limitation for corporate gifts were all valuable to incentivizing giving behaviors.

Longer-term, the Forum supports the bipartisan Universal Giving Pandemic Response and Recovery Act (S.618). If enacted, this legislation will further incentivize all taxpayers to give to charity—regardless of their income or whether they

[1] *https://www.unitedphilforum.org/members.*

[2] *https://www.unitedphilforum.org/resources/covid-19-crucible.*

itemize—helping to spur even more giving as communities continue to fight and recover from COVID–19 and its economic effects.

The charitable deduction is good tax policy—it encourages individuals to give away more of their income, devoting it to their community's needs rather than their own. A simple calculation shows that those in need receive $2.50 in benefit for every $1 of tax benefit. This is an impressive return on investment.

This legislation will democratize giving by further incentivizing all American taxpayers—regardless of their income—to give to charity, thereby ensuring that our country retains a strong and independent civil society. Additionally, it will provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers, and communities, especially those critically impacted by the ongoing pandemic.

The Forum is also proud to join the chorus of 60 national charities which support the bipartisan **Legacy IRA Act (S. 243).** The Legacy IRA Act will encourage more charitable giving by enabling seniors to make contributions from their individual retirement accounts (IRA) to charities through life-income plans. Seniors are a key demographic as they typically make up more than 40 percent of the donor base for charities. This is an expansion of the existing Charitable IRA Rollover provision, which is the fastest growing area of philanthropy. The Legacy IRA Act would expand this giving incentive to more middle-income seniors. A modified version of the Legacy IRA Act was passed by the House of Representatives on March 29, 2022 as part of the "Securing a Strong Retirement Act" (SECURE Act 2.0), and we urge the Senate Finance Committee to include S. 243 in its version of this retirement package.

The Forum joins with many others in the nonprofit community in urging Congress to immediately reinstate the temporary universal charitable deduction, pass the Legacy IRA Act, and pass the Universal Giving Pandemic Response and Recovery Act. We stand ready to be of help should you have additional questions about these requests. Please feel free to contact Matthew L. Evans, Senior Policy Director, at United Philanthropy Forum at matthew@unitedphilforum.org.

United Way

March 16, 2022

The Honorable Ron Wyden	The Honorable Mike Crapo
Chairman	Ranking Member
U.S. Senate	U.S. Senate
Committee on Finance	Committee on Finance

Dear Chairman Wyden and Ranking Member Crapo:

We the undersigned United Ways request that the Senate Finance Committee vote to approve legislation to expand and extend charitable giving tax incentives for tens of millions of Americans who give to charities every year. We specifically support the Universal Giving Pandemic Response and Recovery Act (S. 618 Coons/Lankford), which would allow the overwhelming majority of taxpayers to claim a deduction for income they give back to their communities and people in need.

We deeply appreciate your inclusion of a $300 deduction in the CARES Act and your subsequent expansion of that deduction for 2021. However, that deduction has expired and now most Americans who donate their hard-earned income must pay taxes on that donated income.

United Way is fortunate to have a number of wealthy supporters who make very generous donations that have real impact in communities across the United States. Those donors are able to give more because they do not pay taxes on those donations, because of the charitable deduction. However, there is no reason for different tax treatment for millions of donations from low- or middle-income people. In many cases, these donors must make difficult financial decisions and sacrifice to donate to their local charity or church, yet our current tax policy requires them to pay taxes on money they donate. This is simply unfair.

To be clear, tax policy is very rarely the main reason Americans give to charity. People give for altruistic reasons. But tax policy influences behavior. Our tax laws are full of policies designed to drive behaviors deemed favorable for our society, like home ownership and business investment. What could be better than Congress sending a bipartisan message to everyone that giving is a core American value?

We urge the Committee to act as soon as possible to approve S.618/H.R.1704. And we request that a retroactive nonitemizer deduction be included in any legislative vehicle possible before the end of the year.

Sincerely,

Alabama

Walter Hill
Chief Executive Officer
Wiregrass United Way

Jackie Wuska
President and CEO
United Way of West Alabama

Shannon Jenkins
President and CEO
United Way of East Central Alabama

Becky Goff
Executive Director
United Way of Cullman County

Kathleen Ross
President and CEO
United Way of Morgan County

Valerie Burrage
Executive Director
North Talladega County

Carrie Thomas
Executive Director
United Way of Marshall County

Jannah M. Bailey
President/CEO
The River Region United Way

Jill Chenoweth
President and CEO
United Way of Southwest Alabama

Becky Booker
Executive Director
United Ways of Alabama

Jennifer McNulty
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United Way of Northwest Alabama

Alaska

Clark Halvorson
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United Way of Anchorage

Arkansas

Kristy Williams
Executive Director
River Valley United Way

Nan Tucker
Executive Director
United Way of White County

Jennifer Boyett
Executive Director
United Way of Central Arkansas

Arizona

Shelley Griffin
Vice President, Information Technology
Valley of the Sun United Way

Laura Mike
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Statement of Rebecca Moffett, President

On behalf of Vanguard Charitable, thank you for the opportunity to submit this statement for the record in follow up to the Senate Committee on Finance's hearing on "Charitable Giving Trends in the Nonprofit Sector." We appreciate the Committee for its leadership on this important subject.

At Vanguard Charitable, a sponsor of donor-advised funds (DAF), we are avid proponents of ways to increase charitable giving and strengthen the nonprofit sector and the countless communities it supports, including encouraging individuals to give in all its many forms—monetary donations, volunteering of one's time and talents, and active civic participation. We firmly believe that the more people who are encouraged and able to give, the better off our communities will be. Our comments in this testimony will be focused on a donor-advised fund's role in enabling this.

Vanguard Charitable has the distinct privilege of serving as one of the largest grantmakers in the United States, providing much-needed financial support to hundreds of thousands of unique charities at the recommendation of our more than

25,000 generous donors. Since we were founded by Vanguard 25 years ago as a 501(c)(3) public charity and donor-advised fund, we have granted more than $13 billion to charitable organizations. In 2021 alone, we granted $1.78 billion, an 8% increase on top of a record year of giving in 2020 (increasing by 25% over 2019) in the wake of the COVID–19 pandemic.

These billions of dollars represent significant resources for hardworking nonprofits across the country and around the world who provide food for the hungry, healthcare for the ill, educational opportunities for our children, protection of the environment, support for cultural institutions, and more. Importantly, these dollars are available and ready to be called to action no matter the external or economic conditions.

This is the story of donor-advised funds' role in the charitable sector. In a normal year, they are strong charitable engines that spur generous donations and help power philanthropy. But when the unthinkable happens, they are also equipped with a special gear. In the past few years alone, we've seen our donors respond meaningfully with grants to 501(c)(3) public charities in the wake of hurricanes in the U.S. and abroad, wildfires in the western U.S. and Australia, an earthquake in Puerto Rico, a brutal winter storm in Texas, an explosion in Beirut, and now a humanitarian disaster in Ukraine, just to name a few.

Notably, DAFs do not solely help respond to disasters. Evidence shows they can also be a stabilizing force to the philanthropic world during economic downturns.[1] Because DAF donors have already designated the funds in their DAF for charity, they can respond more easily than other sources of giving, which tend to dry up during recessions. It's this upfront commitment to charity—not just to giving, but to long-term, sustainable support—that sets DAFs and their donors apart.

One of the unique features of DAFs is their ability to grow funds, creating additional dedicated charitable resources. Our donors choose from Vanguard Charitable's diversified lineup of high-quality, low-cost investment options, which have driven tremendous returns on charitable investments in recent years. One study concluded that DAFs created more than $5 billion in new charitable dollars from 2015–2019 due to their ability to grow charitable investments tax-free.[2]

Not only is the donor-advised fund innately built to drive significant charitable giving, it also enables effective and compliant giving, ensuring every donated dollar will be used for charitable purposes. This is especially critical in the wake of disasters or unplanned needs when rapid but responsible movement of charitable dollars is sorely needed. Our due diligence practices help counter the bad actors that often attempt to solicit funds from unsuspecting and well-intentioned donors, and they also ensure our donors are giving in compliance with sanctions or international granting rules—something the average donor may find challenging to navigate. We have seen both these examples come to light in the wake of the Ukraine humanitarian crisis: Vanguard Charitable provided our donors with a list of reputable and carefully vetted organizations that are getting funds directly to those in need, minimizing the need for any review the individual donor may need to do to ensure compliance with international law or quality of the recipient charity. We also got the money out the door quickly; as of this writing, Vanguard Charitable donors granted more than 4,300 times, totaling nearly $37 million.

Our strong compliance and granting history is informed by the rules governing all 501(c)(3) public charities and donor-advised funds. The Pension Protection Act enacted several provisions to further define donor-advised funds and regulate our grantmaking and due diligence practices, thereby penalizing any would-be improper behavior by DAFs or our donors. Also, Vanguard Charitable, like many of our peer grantmakers, has a minimum account activity policy to ensure active granting by all of our donors.

Vanguard Charitable believes in making every dollar that comes into our donor-advised fund even stronger and more effective as it moves to the end charitable recipient. The donor-advised fund's combination of dollars "at-the-ready" that are available for ongoing needs over time—all while granting with the highest level of compliance and due diligence—makes the tool a formidable and necessary sus-

[1] Heist, H. D., Vance-McMullen, D. Understanding donor-advised funds: How grants flow during recessions, *https://www.sp2.upenn.edu/wp-content/uploads/2019/02/Heist-Vance-McMullen_Understanding-Donor-Advised-Funds_working-paper-002.pdf.*

[2] Husock, H. Appreciation in Donor-Advised Funds: An Analysis of Major Sponsors. American Enterprise Institute, *https://www.aei.org/research-products/report/appreciation-in-donor-advised-funds-an-analysis-of-major-sponsors/.*

taining force in the giving landscape. At Vanguard Charitable, we build on that by looking ahead to the future of giving and considering the tools and resources we can provide to donors to help them make well-informed and effective giving decisions. The many resources we provide include:

- Compiling lists of credible, effective disaster relief organizations to help donors give immediately in the wake of great need.
- Investing in technology that enables money to get to charities faster.
- Connecting donors with experts and leaders at many of the nonprofit organizations they support to hear firsthand about their missions.
- Encouraging unrestricted giving to enable charities to use donations for the greatest need.
- Developing innovative and modern giving tools, such as the Nonprofit Aid Visualizer, a mapping solution that helps donors find charities in their local communities who are fighting the hunger and homelessness crises.

As the Committee looks ahead, I respectfully ask you to consider how to encourage greater charitable giving and support the variety of tools, like donor-advised funds, that bolster each dollar individuals invest in the philanthropic sector.

If I can be a resource to the Committee as it considers its next steps or address any questions, please reach out. Vanguard Charitable and donor-advised funds broadly have a history of making a significant impact on communities all over the globe, in times of great need and when other charitable sources may be less available. We hope to continue to serve this critical role for our neighbors.

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March 14, 2022

The Honorable Ron Wyden	The Honorable Mike Crapo
Chairman	Ranking Member
U.S. Senate	U.S. Senate
Committee on Finance	Committee on Finance
219 Dirksen Senate Office Building	219 Dirksen Senate Office Building
Washington, DC 20510	Washington, DC 20510

Dear Chairman Wyden, Ranking Member Crapo and Senate Finance Committee Members:

I respectfully submit this letter on behalf of the nation's 2,600 YMCAs, which serve 10,000 communities across the nation. We urge you to support for enactment two bipartisan bills that will address significant revenue losses and workforce shortages in the nonprofit sector: the Universal Giving Pandemic Response and Recovery Act (UGPRRA), S. 618/H.R. 1704, and the Employee Retention Tax Credit Reinstatement Act, S. 3625/H.R. 6161. These bipartisan bills are critical to YMCAs and other nonprofit organizations and will help us continue to provide critically needed services in communities as they work to overcome ongoing challenges related to the COVID–19 pandemic.

Throughout the pandemic, Ys across the country have provided emergency services for communities in need, including childcare for health care workers and first responders, food for kids without access to school meals, safe and enriching virtual learning spaces, shelter for marginalized populations and outreach to isolated seniors. Ys also have been providing holistic health and wellness support for all ages.

Before and throughout this pandemic, the Y has been a leading nonprofit committed to strengthening community by empowering young people, improving the health and well-being of people of all ages and inspiring positive action in and across communities. This action includes fostering a culture of giving through volunteerism and local fundraising efforts, which are critical to ensuring YMCAs have the capacity to meet the need for services in communities. YMCAs collaborate with a diverse group of partners in the private and public sectors, as well as individual donors at all levels. Fundraising is challenging for certain, and Ys and other nonprofits need every tool we can get to help bolster these efforts, including tax policies that encourage giving.

We urge you to enact the Universal Giving Pandemic Response and Recovery Act (UGPRRA), S. 618/H.R. 1704, led by a bipartisan, bicameral group of lawmakers, including Senators. James Lankford (R–OK), Chris Coons (D–DE), Mike Lee (R–UT), Jeanne Shaheen (D–NH), Tim Scott (R–SC), Amy Klobuchar (D–MN), Susan Collins (R–ME) and Catherine Cortez Masto (D–NV). UGPRRA would increase the cap on the temporary universal charitable deduction from $300/$600 to one-third of the standard deduction—and would extend the availability of the deduction through 2022. Increasing charitable contributions is a key factor in addressing both the increased costs related to the higher demand for services as well as operational setbacks due to significant revenue losses experienced by many nonprofits.

An above the line "universal" charitable deduction would incentivize all American taxpayers—regardless of income—to give to charity, thereby ensuring that our country retains a strong and independent civil society. In 2020, Congress enacted a temporary nonitemizer deduction on charitable donations in the CARES Act. It included a $300 cap for individuals and a $600 cap for couples. This marked the first time in thirty years that all taxpayers were able to claim a deduction on at least part of their charitable giving, regardless of whether they itemized. The Fundraising Effectiveness Project's fourth quarter report for 2020 shows a 15.3 percent uptick in donations of less than $250, which outpaced the increase in larger donations. Additionally, there was an estimated 28 percent increase in gifts of $300 on December 31, 2021—the exact amount of the universal charitable deduction. While we know there are many factors that contribute to increased donations, one factor was likely the availability of the charitable deduction to nonitemizers. Unfortunately, that deduction expired at the end of 2021.

As noted, UGPRA would raise the $300/$600 cap to roughly $4,000 for individuals/ $8,000 for couples and extend the availability of the deduction to the 2022 tax year, helping to spur more giving as communities continue to recover from COVID–19 and its economic effects. It also would provide needed resources for charitable and faith-based organizations to continue providing vital services to families, workers and communities, especially those most severely affected by the ongoing pandemic. Additionally, we are urging Congress to extend two additional disaster-relief giving incentives that expired on December 31, 2021—the provision permitting individuals who itemize to deduct charitable donations up to 100 percent of their adjusted gross income and the measure allowing corporations to deduct charitable donations up to 25 percent of taxable income.

Over the past several months, there has been much discussion about the negative impacts on nonprofit organizations due to the early termination of the Employee Retention Tax Credit (ERTC). The ERTC was instrumental in helping nonprofits like the Y retain staff who deliver essential services in their communities. **We urge you to prioritize passage of the Employee Retention Tax Credit Reinstatement Act (S. 3625/H.R. 6161).** This bipartisan legislation reinstates the ERTC through the end of calendar year 2021, as Congress intended, to help struggling nonprofits who were counting on the ERTC to pay their employees through the end of the year. For YMCAs across America, the elimination of ERTC for the fourth quarter of 2021 cuts $60M-$100M of expected operating funds that already were budgeted to keep critical staff on the payroll to continue meeting vital community needs. Please pass the Employee Retention Tax Credit Reinstatement Act.

Thank you for the opportunity to submit this letter and for your support of the YMCA. We greatly appreciate your consideration to support the provisions outlined here to enhance charitable giving and to further support nonprofits as we continue to recover from the pandemic while also continuing to serve our communities.

Sincerely,

Suzanne McCormick
President and CEO

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