

PREVENTING IRS ABUSE AND PROTECTING FREE SPEECH  
 ACT

JUNE 9, 2016.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,  
 submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5053]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5053) to amend the Internal Revenue Code of 1986 to prohibit the Secretary of the Treasury from requiring that the identity of contributors to 501(c) organizations be included in annual returns, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Preventing IRS Abuse and Protecting Free Speech Act”.

**SEC. 2. PROHIBITION ON REQUIRING THAT IDENTITY OF CONTRIBUTORS TO 501(C) ORGANIZATIONS BE INCLUDED IN ANNUAL RETURNS.**

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

“(n) IDENTIFYING INFORMATION OF DONORS.—

“(1) IN GENERAL.—For purposes of subsection (a), the Secretary may not require the name, address, or other identifying information of any contributor to any organization described in section 501(c) of any amount of any contribution, grant, bequest, devise, or gift of money or property.

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—Paragraph (1) shall not apply—

“(i) to any disclosure required by subsection (a)(2), and

“(ii) with respect to any a contribution, grant, bequest, devise, or gift of money or property made by an officer or director of the organization (or an individual having powers or responsibilities similar to those of officers or directors) or any covered employee.

“(B) COVERED EMPLOYEE.—For purposes of this paragraph, the term ‘covered employee’ means any employee (including any former employee) of the organization if the employee is one of the 5 highest compensated employees of the organization for the taxable year.

“(C) COMPENSATION FROM RELATED ORGANIZATIONS.—

“(i) IN GENERAL.—Compensation of a covered employee by the organization shall include any compensation paid with respect to employment of such employee by any related person or governmental entity.

“(ii) RELATED ORGANIZATIONS.—A person or governmental entity shall be treated as related to the organization if such person or governmental entity—

“(I) controls, or is controlled by, the organization,

“(II) is controlled by one or more persons that control the organization,

“(III) is a supported organization (as defined in section 509(f)(3)) during the taxable year with respect to the organization,

“(IV) is a supporting organization described in section 509(a)(3) during the taxable year with respect to the organization, or

“(V) in the case of an organization that is a voluntary employees’ beneficiary association described in section 501(c)(9), establishes, maintains, or makes contributions to such voluntary employees’ beneficiary association.”.

(b) CONFORMING AMENDMENT.—Section 6033(b)(5) of such Code is amended—

(1) by striking “all”, and

(2) by adding at the end the following: “to the extent not prohibited by subsection (n).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed for taxable years ending after the date of the enactment of this Act.

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H.R. 5053, as reported by the Committee on Ways and Means, would prohibit the Internal Revenue Service (IRS) from collecting the identity of donors who contribute to tax-exempt organizations. Under this legislation, a tax-exempt organization would be required to report only information on donors who contribute \$5,000 or more during a single tax year and who are either an officer or director of the organization or one of its five highest paid employees. This information would be excluded from public disclosure.

### B. BACKGROUND AND NEED FOR LEGISLATION

Current law requires section 501(c)(3) tax-exempt organizations to report information on substantial donors. The IRS defines a substantial donor as a contributor who gives \$5,000 or more to an organization in a calendar year. This information is reported on the Schedule B of the Form 990. The requirement to file a Form 990 applies to tax-exempt organizations generally, not just to section 501(c)(3) tax-exempt organizations. Thus, the IRS has expanded the substantial donor reporting requirements to more than section 501(c)(3) tax-exempt organizations. While the IRS does not make this information public, there have been instances where IRS employees have improperly accessed and released the Schedule B donor list. A notable example is the National Organization for Marriage, which had information from its Schedule B leaked in 2012 and the IRS subsequently paid \$50,000 to settle a lawsuit with the organization claiming that the IRS improperly accessed the information.<sup>1</sup> Certain states, including California, have moved to make Schedule B information public. The move to publicize Schedule B information was the subject of a recent lawsuit, *Americans for Prosperity Foundation v. Kamala Harris, Attorney General for California*. The Attorney General of California wanted to require that the Americans for Prosperity Foundation disclose its Schedule B to the California State Registry. In April 2016, the U.S. District Court ruled that requiring the organization to disclose its Schedule B was unconstitutional.

In recent years it was also revealed that the IRS used inappropriate criteria to target organizations applying for tax-exempt status. Additionally, the IRS is considering eliminating Schedule B entirely.<sup>2</sup> H.R. 5053 would protect taxpayers from improper disclosure of Schedule B information, as well as limit the IRS's ability to target organizations improperly. The legislation also eliminates a burdensome reporting requirement for tax-exempt organizations.

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<sup>1</sup> *Washington Post*, "IRS Agrees to Pay Non-Profit Group \$50,000 for Unauthorized Release of Tax Return," June 24, 2014.

<sup>2</sup> Internal Revenue Service Director of Exempt Organizations, Remarks before the Urban Institute's Center on Nonprofits and Philanthropy, December 1, 2015.

## C. LEGISLATIVE HISTORY

*Background*

H.R. 5053, the Preventing IRS Abuse and Protecting Free Speech Act, was introduced on April 26, 2016, and was referred to the Committee on Ways and Means.

*Committee action*

The Committee on Ways and Means marked up H.R. 5053, the Preventing IRS Abuse and Protecting Free Speech Act, on April 28, 2016.

The Committee approved the Chairman's amendment in the nature of a substitute. Having considered the bill, as amended, the Committee favorable reported H.R. 5053 (with a quorum being present).

*Committee hearings*

Information reporting requirements for tax-exempt organizations, as well as improper targeting of tax-exempt organizations by the IRS, were discussed at multiple hearings in the 114th Congress including the Oversight Subcommittee hearing on the 2015 Tax Filing Season (April 22, 2015), and the Oversight Subcommittee hearing on IRS Audit Selection Process (July 23, 2015).

Improper targeting of tax-exempt organizations was also discussed at multiple hearings in the 113th Congress, including the Oversight Subcommittee hearing on IRS Operations and the 2012 Tax Return Filing Season (March 22, 2012), the Oversight Subcommittee hearing on Public Charity Organizational Issues, Unrelated Business Income Tax, and the Revised Form 990 (July 25, 2012), the Full Committee hearing on IRS Targeting Conservative Groups (May 17, 2013), the Full Committee hearing on the Status of IRS's Review of Taxpayer Targeting Practices (June 27, 2013), the Oversight Subcommittee hearing on the IRS's Exempt Organizations Division Post-Treasury Inspector General for Tax Administration Audit (September 18, 2013), and the Oversight Subcommittee hearing on IRS Operations and the 2014 Tax Return Filing Season (April 30, 2014).

**II. EXPLANATION OF THE BILL**

**A. PROHIBITION ON REQUIRING THAT IDENTITY OF CERTAIN CONTRIBUTORS TO SECTION 501(c) ORGANIZATIONS BE INCLUDED ON ANNUAL RETURNS (SEC. 32 OF THE BILL AND SEC. 6033 OF THE CODE)**

## PRESENT LAW

In general, organizations exempt from taxation under section 501(a) are required to file an annual return (Form 990 series), stating specifically the items of gross income, receipts, disbursements, and such other information as the Secretary may prescribe.<sup>3</sup> An organization that is required to file an information return, but that has gross receipts of less than \$200,000 during its taxable year, and total assets of less than \$500,000 at the end of its taxable year,

<sup>3</sup>Sec. 6033(a).

may file Form 990-EZ. Section 501(c)(3) private foundations are required to file Form 990-PF rather than Form 990. An organization that has not received a determination of its tax-exempt status, but that claims tax-exempt status under section 501(a), is subject to the same annual reporting requirements and exceptions as organizations that have received a tax-exemption determination.

On the applicable annual information return, organizations are required to report their gross income, information on their finances, functional expenses, compensation, activities, and other information required by the IRS in order to review the organization's activities and operations during the previous taxable year and to review whether the organization continues to meet the statutory requirements for exemption. Examples of the information required by Form 990 include: (1) a statement of program accomplishments; (2) a description of the relationship of the organization's activities to the accomplishment of the organization's exempt purposes; (3) a description of payments to individuals, including compensation to officers and directors, highly paid employees and contractors, grants, and certain insider transactions and loans; and (4) disclosure of certain activities, such as expenses of conferences and conventions, political expenditures, compliance with public inspection requirements, and lobbying activities.

Form 990-PF requires, among other things, reporting of: the foundation's gross income for the year; expenses attributable to such income; disbursements for exempt purposes; total contributions and gifts received and the names of all substantial contributors; names, addresses, and compensation of officers and directors; an itemized statement of securities and other assets held at the close of the year; an itemized statement of all grants made or approved; and information about whether the organization has complied with the restrictions applicable to private foundations (secs. 4941 through 4945).

An organization that files Form 990, Form 990-EZ, or Form 990-PF and receives during the year \$5,000 or more (in money or property) from any one contributor generally must report such contributions on Schedule B ("Schedule of Contributors").<sup>4</sup> The Schedule B is open to public inspection for an organization that files Form 990-PF (private foundations) or a section 527 political organization that files Form 990 or Form 990-EZ. For all other Form 990 and Form 990-EZ filers, the names and addresses of contributors are not required to be made available for public inspection. All other information, including the amount of contributions, the description of noncash contributions, and any other information, is required to be made available for public inspection unless it clearly identifies the contributor. As a matter of practice, the IRS does not include Schedule B on the CD sets or any other form of media made available to the public. Instead, on a case-by-case basis, when an individual makes a request for a specific organization's Schedule B, the IRS reviews and redacts the schedule in an effort to avoid divulging information that would identify any contributor.

<sup>4</sup>Certain section 501(c)(3) organizations that meet a 33-1/3-percent public support test of the regulations under sections 509(a)(1) and 170(b)(1)(A)(vi) generally must report contributions totaling \$5,000 or more from a single contributor only to the extent that such contributions exceed two percent of the organization's total contributions. Additional special reporting rules apply to organizations described in sections 501(c)(7), (8), or (10).

The requirement that an exempt organization file an annual information return (Form 990 or Form 990-EZ) does not apply to certain exempt organizations, including organizations (other than private foundations) the gross receipts of which in each taxable year normally are not more than \$50,000. Organizations that are excused from filing an information return by reason of normally having gross receipts below such amount must furnish to the Secretary an annual notice (Form 990-N), in electronic form, containing certain basic information about the organization.<sup>5</sup>

Other organizations exempt from the annual information return requirement include: churches, their integrated auxiliaries, and conventions or associations of churches; the exclusively religious activities of any religious order; certain State institutions whose income is excluded from gross income under section 115; an inter-church organization of local units of a church; certain mission societies; certain church-affiliated elementary and high schools; and certain other organizations, including some that the IRS has relieved from the filing requirement pursuant to its statutory discretionary authority.<sup>6</sup>

#### REASONS FOR CHANGE

The Committee is concerned that the IRS is collecting sensitive information about donors who contribute to tax-exempt organizations. Although the IRS is required by law to maintain the confidentiality of this information, the Committee is aware of instances in which the information was released to third parties. Furthermore, the Committee is concerned that the IRS might use donor information to penalize tax-exempt organizations or donors based on their political beliefs. By limiting the contribution information tax-exempt organizations report to the IRS, the provision will protect taxpayers' identities and help prevent inappropriate political targeting by the IRS. In addition, the Committee believes the Schedule B provides little administrative benefit to the IRS. In fact, senior leadership of the IRS's Exempt Organizations Division has stated recently that the IRS is considering eliminating the Schedule B filing requirement.

#### EXPLANATION OF PROVISION

The provision limits the contributor information that must be reported by an organization described in section 501(c) on its annual information return. Under the provision, except as described below, the Secretary may not require an organization to report the name, address, or other identifying information of any contributor to the organization with respect to any contribution, grant, bequest, devise, or gift of money or property, regardless of amount.

The provision provides two exceptions to this prohibition. First, the Secretary is not prohibited from requiring the information described in section 6033(a)(2) relating to prohibited tax shelter transactions. Second, the Secretary is not prohibited from continuing to require reporting of contributions, grants, bequests, devises, or gifts of money or property in excess of \$5,000 made by an officer or director of the organization (or an individual having pow-

<sup>5</sup> Sec. 6033(i).

<sup>6</sup> Sec. 6033(a)(2)(A); Treas. Reg. secs. 1.6033-2(a)(2)(i) and (g)(1).

ers to responsibilities similar to those of officers or directors) or by a covered employee. Covered employee means any employee (including any former employee) of the organization if the employee is one of the five highest compensated employees of the organization for the taxable year. For this purpose, an employee's compensation includes compensation from the organization as well as any compensation paid with respect to the employment of such employee by any related person or governmental entity. A person or governmental entity is treated as related to the organization if it: (1) controls or is controlled by the organization; (2) is controlled by one or more persons that control the organization; (3) is a supported organization (as defined in section 509(f)(3)) during the taxable year with respect to the organization; (4) is a supporting organization described in section 509(a)(3) with respect to the organization; or (5) in the case of an organization that is a voluntary employees' beneficiary association described in section 501(c)(9), establishes, maintains, or makes contributions to such voluntary employees' beneficiary association.

The provision makes a conforming amendment to section 6033(b), which describes certain information that a section 501(c)(3) organization must include on its annual information return.

#### EFFECTIVE DATE

The provision is effective for returns required to be filed for taxable years ending after the date of enactment.

### III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 5053, a bill to prohibit the Secretary of the Treasury from requiring that the identity of contributors of 501(c) organizations be included in annual returns.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 5053, was ordered favorably reported to the House of Representatives as amended by a roll call vote of 23 yeas to 15 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Brady .....	X	.....	.....	Mr. Levin .....	.....	X	.....
Mr. Johnson .....	X	.....	.....	Mr. Rangel .....	.....	X	.....
Mr. Nunes .....	X	.....	.....	Mr. McDermott .....	.....	X	.....
Mr. Tiberi .....	X	.....	.....	Mr. Lewis .....	.....	X	.....
Mr. Reichert .....	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Boustany .....	.....	.....	.....	Mr. Becerra .....	.....	X	.....
Mr. Roskam .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Price .....	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Buchanan .....	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Smith (NE) .....	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Ms. Jenkins .....	X	.....	.....	Mr. Kind .....	.....	X	.....
Mr. Paulsen .....	X	.....	.....	Mr. Pascrell .....	.....	X	.....
Mr. Marchant .....	X	.....	.....	Mr. Crowley .....	.....	X	.....
Mrs. Black .....	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Reed .....	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Mr. Young .....	X	.....	.....				
Mr. Kelly .....	X	.....	.....				
Mr. Renacci .....	X	.....	.....				

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Meehan .....	X	.....	.....				
Mrs. Noem .....	X	.....	.....				
Mr. Holding .....	X	.....	.....				
Mr. Smith (MO) .....	X	.....	.....				
Mr. Dold .....	X	.....	.....				
Mr. Rice .....	X	.....	.....				

#### IV. BUDGET EFFECTS OF THE BILL

##### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 5053, as reported.

The bill, as reported, is estimated to have the following effect on Federal fiscal year budget receipts for the period 2016–2026.

Fiscal Years (Millions of Dollars)

2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016–21	2016–26
—	–1	–2	–2	–2	–2	–2	–2	–2	–2	–2	–7	–16

Note: Details do not add to totals due to rounding.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: The gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not “major legislation” for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

##### B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that there are no new or increased tax expenditures.

##### C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 6, 2016.*

Hon. KEVIN BRADY,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5053, the Preventing IRS Abuse and Protecting Free Speech Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Peter Huether.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 5053—Preventing IRS Abuse and Protecting Free Speech Act*

H.R. 5053 would amend the Internal Revenue Code to limit the information that a tax-exempt organization must report about its contributors on its annual information return. Under current law, some organizations that are tax-exempt under section 501(c) of the Internal Revenue Code must report to the Internal Revenue Service the names and addresses or other identifying information of contributors of \$5,000 or more. The bill would limit the Secretary of the Treasury from requiring the name, address, or other identifying information of any contributor regardless of the nature or size of the contribution with two exceptions. The Secretary may still require the information relating to prohibited tax shelter transactions and for contributions of \$5,000 or more by officers, directors, or certain highly paid employees of the organization.

The staff of the Joint Committee on Taxation (JCT) estimates that the legislation would reduce revenues by \$7 million over the 2016–2021 period and by \$16 million over the 2016–2026 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. Enacting H.R. 5053 would result in a reduction in revenues in each year beginning in 2017. The estimated increases in the deficit are shown in the following table.

CBO and JCT estimate that enacting the bill would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Peter Huether. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5053, AS ORDERED REPORTED BY THE  
HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 28, 2016

	By fiscal year, in millions of dollars—													
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016– 2021	2016– 2026	
NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact ....	0	1	2	2	2	2	2	2	2	2	2	7	16	

Source: Staff of the Joint Committee on Taxation.  
Note: Components do not sum to totals because of rounding.

## V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee’s review of the provisions of H.R. 5053 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

### B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill contains no unfunded mandate on the private sector, nor does it impose a Federal intergovernmental mandate on State, local, or tribal governments.

### D. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the bill and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

### E. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all leg-

islation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code of 1986 and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

#### F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

#### G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

#### H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

### **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

#### A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

**INTERNAL REVENUE CODE OF 1986**

\* \* \* \* \*

**Subtitle F—Procedure and Administration**

\* \* \* \* \*

**CHAPTER 61—INFORMATION AND RETURNS**

\* \* \* \* \*

**Subchapter A—Returns and Records**

\* \* \* \* \*

**PART III—INFORMATION RETURNS****Subpart A—Information Concerning Persons Subject to Special Provisions**

\* \* \* \* \*

**SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.****(a) ORGANIZATIONS REQUIRED TO FILE.—**

(1) **IN GENERAL.**— Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) **BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.**— Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

(B) the identity of any other party to such transaction which is known by such tax-exempt entity.

**(3) EXCEPTIONS FROM FILING.—**

(A) **MANDATORY EXCEPTIONS.**—Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).—Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year,

the following amounts for such organization for such taxable year:

- (A) the lobbying expenditures (as defined in section 4911(c)(1)),
  - (B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),
  - (C) the grass roots expenditures (as defined in section 4911(c)(3)), and
  - (D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),
- (9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—
- (A) diversion of funds from the organization's exempt purpose, or
  - (B) misallocation of revenues or expenses,
- (10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):
- (A) section 4911 (relating to tax on excess expenditures to influence legislation),
  - (B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations),
  - (C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded, and
  - (D) section 4959 (relating to taxes on failures by hospital organizations),
- (11) the respective amounts (if any) of—
- (A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and
  - (B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,
- (12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),
- (13) such information with respect to disqualified persons as the Secretary may prescribe,
- (14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement).

(16) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed \$1,000.

(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a).

(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

(1) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting

forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed \$2,000. In determining whether a taxpayer exceeds the \$2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) COORDINATION WITH SECTION 527(F).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) ALLOCATION.—For purposes of this paragraph—

(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

(A) IN GENERAL.— If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization, and

(2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization's treatment as an organization described in section 501(c)(4).

(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

(1) IN GENERAL.—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of \$25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting "\$100,000" for "\$25,000".

(2) ANNUAL RETURNS.—Political organizations described in paragraph (1) shall file an annual return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

(3) MANDATORY EXCEPTIONS FROM FILING.—Paragraph (2) shall not apply to an organization—

(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

(B) which is a caucus or association of State or local officials,

(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

- (D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,
- (E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,
- (F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or
- (G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.
- (4) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.
- (h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—
- (1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),
  - (2) any loans made to each such controlled entity, and
  - (3) any transfers of funds between such controlling organization and each such controlled entity.
- (i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—
- (1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—
    - (A) the legal name of the organization,
    - (B) any name under which such organization operates or does business,
    - (C) the organization's mailing address and Internet web site address (if any),
    - (D) the organization's taxpayer identification number,
    - (E) the name and address of a principal officer, and
    - (F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and
  - (2) upon the termination of the existence of the organization, shall furnish notice of such termination.
- (j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—
- (1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

(3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) ADDITIONAL INFORMATION REQUIRED FROM CO-OP INSURERS.—An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

(1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.

(2) The amount of reserves on hand.

(n) CROSS REFERENCES.—For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c).

For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

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## B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by

the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**INTERNAL REVENUE CODE OF 1986**

\* \* \* \* \*

**Subtitle F—Procedure and Administration**

\* \* \* \* \*

**CHAPTER 61—INFORMATION AND RETURNS**

\* \* \* \* \*

**Subchapter A—Returns and Records**

\* \* \* \* \*

**PART III—INFORMATION RETURNS**

**Subpart A—Information Concerning Persons Subject to Special Provisions**

\* \* \* \* \*

**SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.**

(a) ORGANIZATIONS REQUIRED TO FILE.—

(1) IN GENERAL.—Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

(B) the identity of any other party to such transaction which is known by such tax-exempt entity.

(3) EXCEPTIONS FROM FILING.—

(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).—Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of **[all]** substantial contributors, *to the extent not prohibited by subsection (n)*,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) the lobbying expenditures (as defined in section 4911(c)(1)),

(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),

(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

(A) diversion of funds from the organization's exempt purpose, or

(B) misallocation of revenues or expenses,

(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):

(A) section 4911 (relating to tax on excess expenditures to influence legislation),

(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations),

(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded, and

(D) section 4959 (relating to taxes on failures by hospital organizations),

(11) the respective amounts (if any) of—

(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

(13) such information with respect to disqualified persons as the Secretary may prescribe,

(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement).

(16) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed \$1,000.

(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations

shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a).

(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

(1) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed \$2,000. In determining whether a taxpayer exceeds the \$2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) COORDINATION WITH SECTION 527(F).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) ALLOCATION.—For purposes of this paragraph—

(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

(A) IN GENERAL.—If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization, and

(2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization's treatment as an organization described in section 501(c)(4).

(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

(1) IN GENERAL.—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of \$25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting “\$100,000” for “\$25,000”.

(2) ANNUAL RETURNS.—Political organizations described in paragraph (1) shall file an annual return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

- (B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.
- (3) MANDATORY EXCEPTIONS FROM FILING.—Paragraph (2) shall not apply to an organization—
- (A) which is a State or local committee of a political party, or political committee of a State or local candidate,
  - (B) which is a caucus or association of State or local officials,
  - (C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,
  - (D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,
  - (E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,
  - (F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or
  - (G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.
- (4) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.
- (h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—
- (1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),
  - (2) any loans made to each such controlled entity, and
  - (3) any transfers of funds between such controlling organization and each such controlled entity.
- (i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—
- (1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—
    - (A) the legal name of the organization,
    - (B) any name under which such organization operates or does business,
    - (C) the organization's mailing address and Internet web site address (if any),
    - (D) the organization's taxpayer identification number,
    - (E) the name and address of a principal officer, and
    - (F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

(2) upon the termination of the existence of the organization, shall furnish notice of such termination.

(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

(3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) ADDITIONAL INFORMATION REQUIRED FROM CO-OP INSURERS.—An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

(1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.

(2) The amount of reserves on hand.

(n) IDENTIFYING INFORMATION OF DONORS.—

(1) *IN GENERAL.*—For purposes of subsection (a), the Secretary may not require the name, address, or other identifying information of any contributor to any organization described in section 501(c) of any amount of any contribution, grant, bequest, devise, or gift of money or property.

(2) *EXCEPTIONS.*—

(A) *IN GENERAL.*—Paragraph (1) shall not apply—

(i) to any disclosure required by subsection (a)(2), and

(ii) with respect to any a contribution, grant, bequest, devise, or gift of money or property made by an officer or director of the organization (or an individual having powers or responsibilities similar to those of officers or directors) or any covered employee.

(B) *COVERED EMPLOYEE.*—For purposes of this paragraph, the term “covered employee” means any employee (including any former employee) of the organization if the employee is one of the 5 highest compensated employees of the organization for the taxable year.

(C) *COMPENSATION FROM RELATED ORGANIZATIONS.*—

(i) *IN GENERAL.*—Compensation of a covered employee by the organization shall include any compensation paid with respect to employment of such employee by any related person or governmental entity.

(ii) *RELATED ORGANIZATIONS.*—A person or governmental entity shall be treated as related to the organization if such person or governmental entity—

(I) controls, or is controlled by, the organization,

(II) is controlled by one or more persons that control the organization,

(III) is a supported organization (as defined in section 509(f)(3)) during the taxable year with respect to the organization,

(IV) is a supporting organization described in section 509(a)(3) during the taxable year with respect to the organization, or

(V) in the case of an organization that is a voluntary employees’ beneficiary association described in section 501(c)(9), establishes, maintains, or makes contributions to such voluntary employees’ beneficiary association.

**[(n)]** (o) *CROSS REFERENCES.*—For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c).

For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

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## VII. DISSENTING VIEWS

We oppose H.R. 5053, which would prohibit the Secretary of the Treasury from collecting the name, address, or other identifying information of contributors to any tax-exempt, 501(c) organization except in limited circumstances. This bill would open the floodgates for unlimited, anonymous, unaccountable money to pour into U.S. elections—including possibly from foreign sources.

Under present law, certain 501(c) organizations must attach to their annual information returns (IRS Forms 990) a list (Schedule B) of donors who contribute \$5,000 or more during the year (“substantial contributors”). The Schedule B is kept confidential by the Internal Revenue Service (IRS) and is not made public.

Certain 501(c) organizations, such as social welfare organizations, are permitted to engage in political activity. These politically active 501(c)(4) organizations are required to disclose their substantial contributors to the IRS but are not required to disclose them to the public.

There has been a sharp rise in undisclosed money being spent by tax-exempt groups in federal elections since the Supreme Court issued its 2010 *Citizens United* decision. This bill would make it even easier for donors to anonymously funnel money in support of political candidates. Already in this election cycle, according to the Center for Responsive Politics, political spending by tax-exempt groups is five times the amount spent at this point during the 2012 election cycle.

It is no secret as to why Republicans are working to keep donors a secret: the three largest spenders from 2012—representing fully 51% of the total—include Karl Rove’s Crossroads GPS (that spent \$71 million); the Koch Brothers’ Americans for Prosperity (that spent \$36 million); and the Koch Brothers’ American Future Fund (that spent \$25 million). It is no surprise the Koch Companies Public Sector, LLC sent a letter to Republican Members on the day of the markup urging them to support the bill. Simply put, H.R. 5053 does nothing more than solidify the secrecy around the Republicans’ big campaign efforts.

The bill also potentially opens the door for unlimited, secret money from foreign governments or individuals to be funneled into our elections. Currently, foreign money cannot be given or spent in our elections. The only real protection we have against the use of foreign money by politically active social welfare organizations is that they must disclose their substantial contributors to the IRS. This requirement means that tax-exempt, 501(c)(4) groups know they can be held accountable if they illegally spend foreign money in federal elections. Campaign finance reform groups opposing this bill warned that, if donor disclosure to the IRS is eliminated, no one will know whether a social welfare organization has received foreign funds and is illegally spending them in our elections.

We should not support efforts to reduce transparency and make it easier for donors to pour unlimited funds into political campaigns. For these reasons, we oppose this bill.

SANDER M. LEVIN,  
*Ranking Member.*

