

PEOPLE UNITED *for* PRIVACY

Forecasting 2024 State Threats to Nonprofit Advocacy and Donor Privacy

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People United for Privacy expects lawmakers in as many as **31 states** to consider legislation in 2024 that would chill nonprofit advocacy and expose members and supporters of nonprofit groups to threats, harassment, and intimidation. This concern is particularly pronounced in **California, Hawaii, Idaho, Michigan, Minnesota, Ohio, Oklahoma, Oregon, Virginia, and Wyoming.**

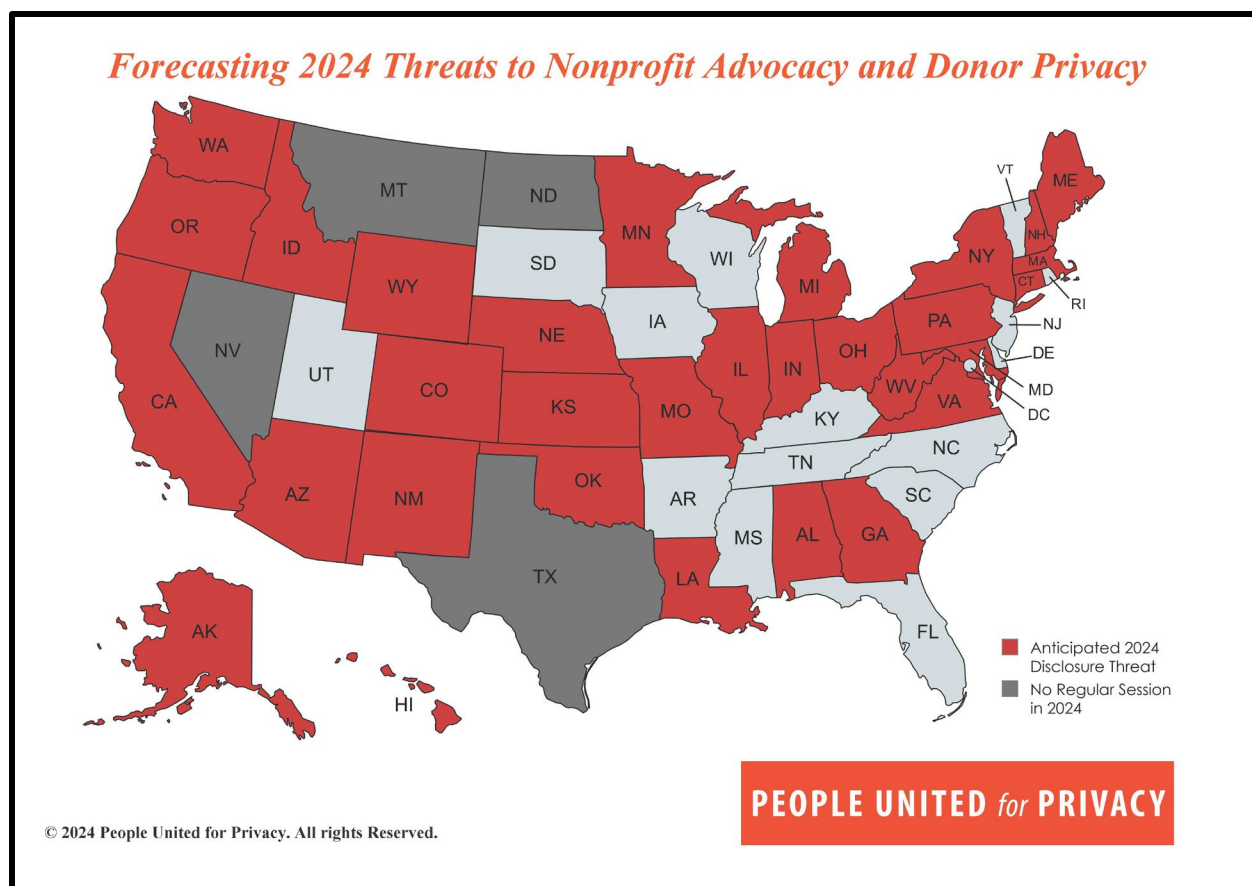
As the 2024 sessions intensify, here are five key takeaways for free speech and citizen privacy advocates:

- (1) Of the 31 states featured in this memo, 14 have legislatures controlled by **Democrats**, 12 have **Republican**-controlled legislatures, and 5 feature **split** control, whether between chambers or dividing the legislature and the Governor. The lesson? Party control has no bearing on whether an anti-speech or anti-privacy proposal will receive consideration or become law.
- (2) Historically, legislative sessions in election years witness less noticeable activity than their odd-year counterparts. While we are likely to see a lower volume of legislative threats in 2024, those threats that are seriously considered are likely to be more intense, buoyed by a desire to negatively impact nonprofit advocacy in the remainder of an election year. **Michigan** is one such example.
- (3) We know from experience that determined lawmakers will continue to reintroduce and refine their proposals until passage is secured. Just because a bill stalled or was rejected in a prior session does not mean it won't return or gain majority support in the future. We anticipate efforts of this nature in **California, Idaho, Minnesota, Ohio, Virginia, and Wyoming**, among other states.
- (4) Panic about alleged foreign influence within nonprofits is adding fuel to anti-privacy fires. Initially a focus of Democrats, this concern is increasingly voiced by Republican lawmakers. Proposals in **Georgia, Hawaii, Missouri, Ohio, Oklahoma, Virginia, and Washington** exemplify this threat.
- (5) The scourge of [Arizona Proposition 211](#) – both its expansive reach and its labyrinthine “original/true source” disclosure regime – is spreading to other states, to the detriment of all nonprofits and the privacy of their members and supporters. **Hawaii, Maine, Oklahoma, and Oregon** warrant close scrutiny on this count.

Most of the legislation discussed in this memo is very unlikely to emerge as a serious threat or become law. However, as both parties increasingly view donor disclosure mandates as a tool for ruining their opposition and settling political scores, the threat of anti-privacy proposals passing in states across the country is high. All nonprofits must be on guard for harmful proposals in their state.

For more information on the threats discussed in this memo, hyperlinks are provided to bill text, analysis/commentary, and news coverage that readers may find useful. The 31 states discussed herein are listed in alphabetical order along with a summary of recent history and the current political climate.

*This memo does not catalog every threat, and new or intensified threats can emerge at any time. In addition to the 4 states not meeting in regular session this year (Montana, Nevada, North Dakota, and Texas), 15 states are not discussed in this memo. Those states – **Arkansas, Delaware, Florida, Iowa, Kentucky, Mississippi, New Jersey, North Carolina, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, and Wisconsin** – may consider legislation that threatens the privacy of nonprofit members and supporters, but we cannot predict a credible threat at this time. Still, due diligence should be exercised to monitor and respond to objectionable legislation that may arise.*



Potential 2024 Legislative/Regulatory/Ballot Measure Threats

Alabama (Ethics Reform Package): The House Ethics and Campaign Finance Committee [held](#) a series of meetings in the 2023 interim to consider changes to the state’s ethics code and will propose legislation amending existing ethics laws in the 2024 session. While the ethics code primarily deals with the conduct of lawmakers and personal financial disclosures required of government officials, discussions of ethics reform in state legislatures often inappropriately turn towards undermining the privacy of nonprofits and their supporters. Fortunately, members of the Committee have not indicated interest in targeting nonprofits or amending laws, such as the state’s Fair Campaign Practices Act, that would pose the greatest risk to free speech and privacy rights. Still, a forthcoming ethics reform package warrants close monitoring due to the risk that some lawmakers may wish to shift their focus from government transparency to citizen privacy.

Alaska (Nonprofit Advocacy on Initiative, Referendum, and Recall Campaigns): In 2023, House Minority Leader Calvin Schrage (Unaffiliated), joined by Representatives Alyse Galvin (Unaffiliated) and Rebecca Himschoot (Unaffiliated), introduced [H.B. 36](#), which would require disclosure of the identity of individuals and groups, including nonprofits, that engage in advocacy supporting or opposing an application for an initiative, referendum, or recall election. The bill, which automatically carried over to the 2024 session, awaits hearings in the House State Affairs and Judiciary Committees.

Arizona (Prop 211 Implementation and Top-Funder/Out-of-State Contributor Disclosure): In an extremely concerning development for privacy and free speech rights, Arizona voters approved Proposition 211, dubbed the “[Voters’ Right to Know Act](#),” in November 2022. A [misleading campaign](#) marketed the initiative as forcing the disclosure of “campaign” donors. In reality, this [draconian measure](#) compels the

exposure of nonprofit donors – and their donors’ donors, what the initiative terms “original monies” – when organizations voice opinions on public policy debates and legislative matters in Arizona. The end result will be many nonprofits [choosing to self-censor](#) and many Arizonans ceasing to give to causes they believe in, further entrenching the power of the media and elected officials while silencing the voices of everyday Arizonans. The initiative [grants](#) immense power to the Citizens Clean Elections Commission (CCEC) to enforce the law and [decree](#) the process by which a nonprofit reports the “original monies” accounting for its financial support. While [three separate legal challenges](#) to the Prop 211 law are ongoing, the CCEC is [actively promulgating rules](#) to implement the statute, and the text of the law is spreading to states around the country, mostly notably [Oklahoma](#) and [Oregon](#). Separately, legislators sought to further expand donor disclosure mandates in 2023. Several House Democrats introduced [H.B. 2123](#), which would have required groups to list their top-four funders on the face of any advertisements or fundraising solicitations. The bill further mandated that organizations identify within the message any out-of-state contributor that is a “major funding source.” The bill died in committee, but similar legislation is expected to be reintroduced in the 2024 session.

California (Electioneering Communication-Style Reporting Amendments for Issue Advocacy): [S.B. 724](#), as amended in the Assembly, halves the current disclosure threshold for communications that mention elected state officers if the communication contains information about the official’s voting record or sources of campaign funds. The bill also more than triples the window within which such communications trigger donor disclosure and reporting, from 45 days currently to within 150 days of an election. The legislation, which was introduced in 2023 and carries over to the 2024 session, already passed the Senate unanimously and awaits further review by the Assembly Appropriations Committee.

Colorado (Possible Secretary of State-Led Nonprofit Donor Disclosure Legislation): Like California, the increasingly progressive Colorado General Assembly has routinely flirted with – and increasingly passed – nonprofit donor disclosure legislation on an annual basis. In 2019, it was a lite-version of Democrats’ [H.R. 1 in Congress](#), introduced [at the behest](#) of Secretary of State Jena Griswold (D), that made the state’s disclaimer requirements more aggressive ([H.B. 19-1318](#)). Another 2019 proposal extended the state’s “electioneering communication” window, during which organizations must run disclaimers and otherwise disclose certain of their donors, to [periods between elections](#), rather than just shortly before a particular election ([S.B. 19-068](#)). In 2021, it was the “Preventing Foreign Influence Act” ([S.B. 21-177](#)), which created and defined the term “foreign-influenced corporation” and prohibited such entities from engaging in issue speech and political advocacy. Fortunately, unlike the 2019 bills, that 2021 effort, which was also backed by Secretary Griswold, failed. In 2022, Democrats and Republicans united to pass a measure late in session, [S.B. 22-237](#), that [clarified](#) when groups engaged in ballot measure advocacy must report to the state in similar fashion to PACs. Legislative negotiations resulted in a somewhat more carefully written measure, but its overall impact remained detrimental to nonprofit advocacy and donor privacy. Though no threat materialized last year, there’s a high probability in 2024 that Secretary Griswold will pursue wide-ranging legislation that may harm citizen privacy. The substance of any forthcoming effort remains to be seen, but privacy advocates could have yet another fight on their hands this year.

Connecticut (Potential Nonprofit Donor Disclosure Legislation): Though no notable privacy threats emerged in the 2023 session, the Connecticut General Assembly is a repeat offender with a history of legislative activity that would threaten the privacy of nonprofit donors. Examples abound in the [2019](#), [2020](#), and [2022](#) sessions, though lawmakers’ interest has thankfully cooled in recent years. Regardless, privacy proponents should monitor the Connecticut General Assembly closely for the duration of the 2024 session.

Georgia (Secretary of State-Led “Foreign Influence” Package): Secretary of State Brad Raffensperger (R) [urged lawmakers](#) to pass legislation aimed at prohibiting “foreign sources of funding from being used to influence elections, including campaigns for public office or any ballot measure being put before voters in Georgia.” Lawmakers quickly answered the Secretary’s call via [S.B. 368](#), which prohibits foreign

nationals from contributing to candidates or campaign committees and requires agents of foreign principals to register with the State Ethics Commissioner and disclose to government agencies and the General Assembly when such agents are advocating on behalf of a foreign principal. This legislation should be actively monitored throughout the 2024 session for any amendments that could harm nonprofit advocacy or the privacy rights of American donors to nonprofit causes.

Hawaii (Original Source Disclosure for Independent Spenders and “Foreign-Influenced Corporation” Regulation): [S.B. 997](#), which was introduced in 2023 and designated for carryover to the 2024 session, would require independent groups making expenditures to include within regulated communications a disclaimer naming their “top three donors who directly *or indirectly* donated \$10,000 or more in *original* funds...” The bill also modifies the existing definition of “expenditure” to include the vague and confusing regulatory standard of “Communications that advocate or support the nomination, opposition, or election of a candidate, *regardless of whether the communication expressly advocates the election or defeat of a candidate.*” After hearing the bill in February 2023, the Senate Judiciary Committee deferred the measure without scheduling another hearing. While the Hawaii Campaign Spending Commission [submitted testimony](#) opposing the bill, the Campaign Legal Center, a prominent advocate of nonprofit donor disclosure measures, [submitted testimony](#) supporting the measure. Separately, lawmakers are considering a bill, [S.B. 1179](#), prohibiting a “foreign-influenced business entity” from making political expenditures and opining on policy issues. That bill passed the Senate unanimously and awaits a hearing in the House Finance Committee, after previously passing the House Judiciary and Hawaiian Affairs Committee. Both measures are a threat to move in the 2024 session.

Idaho (Secretary of State-Initiated Lobbying Law Amendments and Nonprofit/First-Dollar Donor Disclosure Legislation): Secretary of State Phil McGrane (R) promised to make changes to the reporting process for lobbyists and campaigns before he took office at the beginning of 2023 and successfully [obtained funds](#) for this purpose from the Legislature. In 2024, he’s [interested](#) in lawmakers amending the underlying lobbying statutes that his office enforces. While any resulting changes could be benign, lawmakers may seize the opportunity to take aim at disfavored groups. Senate President Pro Tempore Chuck Winder (R), who has long [complained](#) about certain nonprofits that challenge his policy agenda, may seek [yet again](#) to push nonprofit donor disclosure legislation that would expose the supporters of his ideological opponents to potential harassment and retaliation. One such bill co-sponsored by Winder, [S. 1251](#), requires federally-focused PACs to follow the same reporting requirements as in-state PACs, but it could easily serve as a vehicle for more nefarious ends. That bill passed the Senate in early February without any amendments and awaits action in the House where it should be monitored. Increasing the risk of politically-motivated donor disclosure proposals, the Idaho Republican Party recently approved [Resolution 2014-14](#) “Condemning Dark Money in Idaho Campaign Finance” in response to ads criticizing some Republican lawmakers. Enter [S. 1218](#), introduced by Senator Scott Herndon (R), which would have required first-dollar disclosure of the name and home address of any individual who gives *as little as a dollar* to a candidate or political committee. Fortunately, S. 1218 failed on the Senate floor in a 12-22 vote in early February and is dead for the 2024 session.

Illinois (Revised Judicial Advocacy Disclosure Legislation): Although legislation threatening donor privacy was not considered in the Illinois General Assembly in 2023, the previous two years saw a flurry of concerning activity. Democrats expressed interest in restricting advocacy surrounding judicial candidates, a proposal that could re-emerge in 2024 and pose serious risks to the privacy of nonprofit supporters. As further evidence that constitutional concerns take a back seat to political motivations in Illinois, Governor J.B. Pritzker (D) signed two bills into law in 2021 ([S.B. 536](#)) and 2022 ([H.B. 716](#)) that contained blatant [First Amendment violations](#). Provisions banning out-of-state contributions to judicial candidate committees and imposing contribution limits on independent expenditure committees were [struck down](#) in federal court last year. The [bill](#) enacted in 2021 also took aim at “contributions from any entity that does not disclose the identity of those who make contributions to the entity...” The [measure](#) signed by

Governor Pritzker in 2022 requires political committees, including independent expenditure committees, that support or oppose judicial candidates to report the donors of any organization that contributes more than \$500 if that organization “is not required to disclose its contributors under this Act.” Elections in 2024 could ignite partisan interest in resurrecting and expanding these laws to the detriment of nonprofit advocacy efforts and citizen privacy.

Indiana (Increased AG Oversight of Nonprofit Records): In the 2023 session, Attorney General Todd Rokita (R) spearheaded companion legislation via [H.B. 1075](#) and [S.B. 278](#) to increase the powers of the AG’s Office to compel sensitive records from nonprofits and take enforcement action at the AG’s discretion. The measures passed their chamber of origin, but stalled in their second chamber out of concern for the potential for abuse wrought by such sweeping powers. While H.B. 1075 and S.B. 278 failed in 2023, it’s likely identical or similar bills will be reintroduced in 2024.

Kansas (Special Committee on Governmental Ethics Reform, Campaign Finance Law Recommendations): While legislative interest in broadly re-examining campaign finance laws always presents some risk to speech and privacy rights, the [attention](#) on such laws in the Kansas Legislature is a promising opportunity for positive change. The reform effort is, in part, motivated and informed by the distressing [experience](#) of a small social welfare organization formed by neighbors to speak out about local issues that faced shocking demands from the Kansas Governmental Ethics Commission to register as a PAC and disclose its donors. The Commission employed a vague and open-ended rule for determining PAC status that provides no clear guidance to the public or consistent standards for enforcement. During the 2023 session, the Legislature formed a [Special Committee on Governmental Ethics Reform, Campaign Finance Law](#) to investigate issues in the state’s campaign finance laws that were left unaddressed by a process-oriented reform bill adopted in the spring, [S.B. 208](#). Those outstanding issues include the law’s constitutionally suspect definition of a “political committee,” donor disclosure requirements for nonprofit groups that are not considered political committees under the law but may occasionally comment on a political issue, and the shockingly low monetary threshold for public exposure of Kansans’ campaign donations. Each of these policy areas affects the personal privacy rights of Kansans and the nonprofits they support, People United for Privacy’s [comments](#) to the Special Committee [explain](#). Hopefully, the Legislature will act on the Special Committee’s [recommendations](#) in 2024 and pass meaningful improvements to existing law while avoiding any harmful provisions.

Louisiana (Litigation Financing Agreement Disclosure): [S.B. 196](#), known as the “Litigation Financing Disclosure and Security Protection Act,” passed the Republican-controlled Legislature in 2023 but was vetoed by former Governor John Bel Edwards (D). The legislation would have established disclosure requirements for third-party “litigation financing,” a newly defined term. Importantly, Senator Franklin Foil’s (R) adopted [floor amendment](#) added that the new disclosure requirements “shall not apply to nonprofit legal organizations funded by private donors that represent clients on a pro bono, no-cost basis provided that the nonprofit legal organization seeks only injunctive relief on behalf of its clients.” The amendment also clarified that the legislation “shall not be interpreted to require a nonprofit legal organization to disclose its donors or sources of funding.” With a new Republican governor, a reintroduced version of this bill would likely face no barriers to enactment. It’s essential to ensure that protections for nonprofit donor privacy are included in any forthcoming legislation.

Maine (Original Source Disclosure): [L.D. 1590 \(S.P. 621\)](#), a carryover bill introduced in 2023 by Senator Richard Bennett (R), would introduce a dizzying array of disclosure and recordkeeping requirements that would force groups to not only publicly identify their own contributors but also their contributors’ contributors. Groups that have always protected the privacy of their supporters would be forced to disclose the names and addresses of their donors to a group they have contributed to in order for the recipient group to include that information on their own reports. Furthermore, the recipient would be required to include a disclaimer identifying the top-three sources of “original funds” within communications about candidates

and ballot measures. In other words, the bill would force groups to publicly expose the names and addresses of donors who are not even the group's donors but rather supporters of groups that have made contributions. The convoluted measure is backed by anti-privacy activists at the Campaign Legal Center and RepresentUs and modeled partially after [Arizona Prop 211](#). After initially being recommended for passage as amended by the Joint Veterans and Legal Affairs Committee, Maine nonprofits, including [Maine Conservation Voters](#) and [Planned Parenthood](#), voiced their opposition to lawmakers, and the bill was scheduled for reconsideration. In January 2024, the Joint Committee heeded the nonprofit community's concerns and voted 10-3 to issue an Ought Not to Pass report. The full Senate will now have an opportunity to weigh in on the Joint Committee's recommendation.

Maryland (Potential Nonprofit Donor Disclosure and Oversight Legislation): In a departure from recent history, the Maryland General Assembly gave privacy proponents little cause for concern in 2023. For years, state lawmakers have grappled with proposals that threaten nonprofit advocacy and privacy in association, including [harsh regulation of online advocacy](#) in 2018 that was later [ruled unconstitutional](#) and a 2020 effort via [H.B. 953](#) and its companion [S.B. 927](#) to force donor disclosure from nonprofits publishing "issue lobbying communications" to Maryland citizens about legislation. Entering 2024, one bill in particular, [S.B. 262](#), should be watched closely, as it grants more power to the Secretary of State to oversee nonprofits. That bill, which was introduced at the request of Secretary of State Susan C. Lee (D), was heard in the Senate Judicial Proceedings Committee in early February. With one-party control in Maryland and [progressive leadership](#), any donor privacy threats that emerge in 2024 have the potential to become law.

Massachusetts (Electioneering Communication Expansion, Top-Funder Disclaimers, and Nonprofit Donor Disclosure Mandates): Two carryover bills present active threats to free speech and nonprofit donor privacy in Massachusetts. [H. 672](#) expands the definition of "electioneering communication" to include text messages. The bill also applies a "Top Contributors" disclaimer requirement to text messages that can be considered electioneering communications, independent expenditures, or communications about ballot questions. The Joint Election Laws Committee held a hearing on the bill in June 2023, but the legislation remains pending in Committee. [H. 676](#) mandates that individuals in a "major policymaking position," which includes certain government employees, disclose contributions over \$1,000 to 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) nonprofits that make electioneering communications, support or oppose ballot questions, speak about candidates, or give to other groups that engage in such activity. This legislation also remains with the Joint Election Laws Committee, which held a hearing on the bill last May.

Michigan (Nonprofit Donor Disclosure Legislation): Following [recent charges](#) of misappropriating nonprofit funds involving aides to the former Michigan Speaker of the House, Attorney General Dana Nessel (D) and Secretary of State Jocelyn Benson (D) are urging Michigan lawmakers to pass legislation increasing regulation and oversight of nonprofits active in Michigan. In a press release announcing the charges, Nessel [opined](#) that "the facts of this case serve to reinforce how the current laws regulating nonprofit political action committees are woefully inadequate to ensure the integrity of Michigan's political operations. It is incumbent upon the legislature to act swiftly in enacting significant changes to create transparency and reduce the pervasive malfeasance which erodes public trust and accountability in our state government." Nessel has also reportedly urged lawmakers "not to let perfect be the enemy of the good" in their efforts to adopt legislation, and Benson has [called](#) for expanding donor disclosure requirements for all nonprofits, not just those with connections to elected officials. Legislation will likely be introduced in the first quarter of 2024 and will almost certainly pose a [significant threat](#) to nonprofit advocacy and citizen privacy. Lawmakers will be in session for the duration of 2024.

Minnesota (Further Nonprofit Donor Disclosure Legislation/Rulemakings): The 2023 session was [chilly](#) for proponents of nonprofit advocacy and citizen privacy. In addition to the passage of a sweeping package via [H.F. 3](#) modeled after Congressional Democrats' [H.R. 1](#), parts of which have already been [put on hold](#) by the courts, the "electioneering communication" disclosure requirements in [H.F. 2337/S.F. 2732](#)

(along with [H.F. 1141/S.F. 1362](#)) were quietly added via amendment to a massive appropriations bill, [H.F. 1830](#), signed by Governor Tim Walz (D). It remains to be seen what [additional damage](#) can be done to the nonprofit community in 2024, but privacy advocates should monitor both the Legislature and the Campaign Finance and Public Disclosure Board's [rulemaking docket](#) closely for any further proposals to broaden the newly enacted disclosure requirements in state law.

Missouri (Ballot Measure Advocacy Regulation and Out-of-State Donor Reporting): Republicans pre-filed a [slew of legislation](#) for the 2024 session aimed at changing the initiative petition process in an effort to increase the difficulty of placing measures on the ballot. Some Republican lawmakers are particularly concerned about out-of-state contributors to ballot initiative committees. For example, [S.J.R. 73](#) is a proposed constitutional amendment that, if approved by voters, would increase reporting and donor disclosure requirements for committees advocating for an initiative petition proposing a constitutional amendment. The proposal also seeks to increase the necessary threshold for voter approval according to the percentage of sponsoring committees' contributions that were received from out-of-state sources. The measure was heard in the Senate Local Government and Elections Committee in late January, received [significant opposition](#), and now awaits Committee action. As proposals like S.J.R. 73 gain traction, privacy advocates should closely monitor any bills that threaten nonprofits that discuss ballot issues.

Nebraska (Electioneering Communication Reporting and Disclosure Legislation): [L.B. 9](#), a carryover bill introduced in 2023 by Senator Carol Blood (D), would impose an "electioneering communication" reporting and disclosure regime on nonprofits that voice opinions on public policy issues. More specifically, the measure would trigger donor disclosure for issue speech that mentions an elected official seeking re-election or a pending ballot question if the communication occurs within thirty days of an election. The Senate Government, Military and Veterans Affairs Committee held a hearing on the bill in March 2023 but took no further action on the legislation. During her testimony, Senator Blood [suggested](#) that exposing the names and addresses of nonprofit supporters is necessary to stop "negative ads" and "misinformation." In other words, curbing unwanted and disfavored speech is an intended result of the bill.

New Hampshire (Campaign Finance Code Rewrite and PAC Registration/Reporting Amendments): In 2023, Governor Chris Sununu (R) signed [H.B. 195](#) into law, which lowered the spending threshold for regulation as a "political advocacy organization" and modified the types of communications that trigger such status. Just as the bill was being signed into law, members of the House Election Law Committee [met](#) to discuss further changes to the state's campaign finance laws and solicited recommendations from the Secretary of State's office. Already, companion bills have been introduced in the House ([H.B. 1091](#)) and Senate ([S.B. 534](#)) making various changes to New Hampshire's campaign finance code. Both measures change the definition of "political committee" to include a "political advocacy organization to promote issues and ideas that may influence voters' choices on the ballot." At the same time, the bills expand the reach of and add vague standards to the definition of "political advocacy organization." Prior to the enactment of H.B. 195, the spending threshold was \$5,000 in a calendar year. H.B. 1091 and S.B. 534 lower the recently enacted \$2,500 a year threshold to just \$1,000 over a two-year period. Under the bills' new definition, a nonprofit that spends \$1,000 on communications "likely to be interpreted...as influencing the support, opposition, promotion, or attack of a candidate" or ballot measure is subject to regulation as a "political advocacy organization" and obligated to file complex reports in the same manner as a PAC. Fortunately, the introduced language retains current law's donor disclosure exemption for 501(c) organizations but adds a disclaimer requirement forcing groups to state within their communications that they have chosen not to disclose their donors. These measures and that exemption deserve close scrutiny. The bills are sponsored by the chairs of the committees of referral. H.B. 1091 is scheduled for a hearing in the House Election Law Committee in mid-February, while S.B. 534 already [received a hearing](#) in the Senate Election Law and Municipal Affairs Committee on January 30.

New Mexico (Broadened “Expenditure” Definition): Last year, the New Mexico Senate, in a mostly party-line vote, passed [S.B. 42](#), which would have expanded donor disclosure requirements for groups that discuss public policy. Fortunately, the bill [died in the House](#) with bipartisan opposition, albeit by a narrow margin. Amazingly, the legislation sought to further broaden disclosure requirements that only became law in 2019 and are [currently being challenged](#) as unconstitutionally overbroad by two nonprofits. The bill would have achieved this constitutionally suspect goal primarily by removing the phrase “for a political purpose” from key definitions that determine when a nonprofit would have to expose its donor list for voicing opinions on public policy. First, the bill removed the “political purpose” stipulation from the definition of “expenditure,” which covers communications that merely *refer to* a candidate or ballot question. Second, the bill replaced the term “contribution” with “donation” in provisions requiring groups making independent expenditures to disclose the names and addresses of their supporters. A “contribution,” under current law, is “made or received for a political purpose.” A “donation,” under a newly created definition in the bill, may be made for any purpose. The end result would have been a donor disclosure regime explicitly untethered from any language that could be interpreted as limiting its reach to political campaign activity. Given New Mexico’s recent history of moving in the [wrong direction](#) on speech and privacy issues, legislation similar to S.B. 42 is possible this session. While consideration of all legislation in even-numbered years is subject to the Governor’s discretion, this anti-privacy crusade is championed by Senate Majority Floor Leader Peter Wirth (D), who holds the #2 position in Senate Leadership.

New York (Potential Anti-Privacy Legislation): Several bills introduced in 2023 that automatically carried over into the 2024 session are worth monitoring for potential anti-privacy amendments. For example, bills requiring additional information about occupation and employer information for campaign contributors ([S. 1559](#)) and PAC contributors ([A. 6542/S. 2362](#)) to be disclosed on campaign finance reports or banning corporate campaign contributions ([A. 5410A/S. 5553A](#)) could attract amendments from lawmakers interested in forcing nonprofits to identify their supporters. Even when nonprofit donor disclosure is not the intent of introduced legislation, campaign finance bills sometimes lead to lawmakers pushing to regulate social welfare nonprofits as political committees, whether directly or indirectly.

Ohio (Nonprofit Donor Disclosure Legislation and Foreign Donor Ban for Ballot Measure Advocacy): [H.B. 112](#), a carryover bill misleadingly short-titled the “Ohio Anti-Corruption Act,” would expand the scope of Ohio’s campaign finance law in order to mandate the disclosure of nonprofit donors as a consequence of engaging in limited election-related advocacy. The measure seizes on a scandal involving already illegal activity for which a former House Speaker was convicted. Under the bill, issue-focused groups that do not exist primarily to engage in electoral advocacy [would be forced](#) to publicly expose their donors who did not give for any election-related purpose. The House Government Oversight Committee heard the bill in April 2023, but no further action has been taken. Of concern, Senate President Matt Huffman (R) has [expressed interest](#) in finding a way to force certain nonprofits to disclose their donors. Posing an additional potential threat to nonprofit advocacy and donor privacy, Secretary of State Frank LaRose (R) is [pushing for legislation](#) targeted at groups engaged in advocacy on ballot issues to crack down on alleged “indirect” foreign contributions. In response, the introduction of [S.B. 215](#), sponsored by Senators Theresa Gavarone (R) and Rob McColley (R), broadly prohibits foreign nationals from making contributions or expenditures in connection with ballot measure campaigns. While not necessarily a threat as introduced, this legislation should be actively monitored for the duration of the year-long 2024 session.

Oklahoma (Campaign Finance and Election Threats Task Force Recommendations and Oklahoma Ethics Commission Prop 211 Rulemaking): Last November, Governor Kevin Stitt (R) signed an [Executive Order](#) creating the “Governor’s Task Force on Campaign Finance and Election Threats,” with findings and recommendations due January 15, 2024. As stated in the Executive Order, “The Task Force shall study, evaluate, and develop policy and administrative recommendations related to campaign finance and foreign investment and/or interference in Oklahoma elections.” Among other areas of inquiry, the 9-member Task Force was ordered to look into “identifying any campaign finance loopholes that need to be

closed” and suggesting “a mechanism or process by which the state can detect the covert distribution of propaganda and disinformation against the peace and dignity of the State of Oklahoma.” As we’ve seen in other states and [in Congress](#), efforts to undermine free speech and citizen privacy in Oklahoma are being misleadingly touted as necessary to address foreign interference and election security. While the Executive Order couches general concerns about “coercive influence” in fears of foreign “governments’ money and influence” impacting state elections, the [press release](#) announcing the Order highlights previous comments from Governor Stitt in his [2023 State of the State Address](#) denouncing “special interests” as a threat to democracy. Comments from state legislators also [reveal a desire](#) to expose nonprofit donors borne out of frustration with criticism of their voting records from certain groups. Perhaps relatedly, Representative Cody Maynard (R) filed a [rulemaking petition](#) with the [Oklahoma Ethics Commission](#) allegedly to crack down on [so-called “dark money”](#) that mimics the privacy-invasive [Arizona Prop 211](#) statute. Prop 211 [compels the disclosure](#) of nonprofit donors – and their donors’ donors – merely for engaging in public policy debates. After the Commission initially [scheduled](#) consideration of the rulemaking petition at a regular meeting in February, Representative Maynard [asked the Commission](#) to temporarily delay consideration of the rulemaking. As a result, the rulemaking request is on hold, but it could return at any time. While lawmakers will have the opportunity to vote to approve or reject any proposed rules promulgated by the Commission this spring, if resurrected, this potential rulemaking is an [extremely serious threat](#) to all nonprofits active in Oklahoma and the privacy of Oklahomans who support them.

Oregon (Possible 2024 Anti-Privacy Initiative and Potential Nonprofit Donor Disclosure Legislation):

Anti-privacy forces are [actively working](#) to place a measure, [Initiative Petition 9](#), on the November 2024 ballot. The effort, modeled after [Arizona Prop 211](#), may spur the Legislative Assembly into action as a means of derailing the initiative and asserting control over the contents of the final law. Governor Tina Kotek (D) has [thrown cold water on that idea](#), but lawmakers may insist on having a say in such a significant overhaul of state law. Neither outcome is ideal, but the initiative would almost certainly be worse. The Oregon Constitution stipulates that the 2024 session cannot last longer than 35 days, so lawmakers would be required to act very quickly, which could pose a serious hurdle to their efforts. This situation bears close scrutiny during session and beyond.

Pennsylvania (Regulating Nonprofits as Political Committees): [H.B. 1472](#), a carryover bill introduced in June 2023, amends existing reporting requirements to require 501(c)(4) organizations making independent expenditures, including advocacy on ballot questions in *any amount*, to file reports with the same information required of candidates and political committees. Put another way, the bill seeks to regulate nonprofit organizations as political committees if they spend any money speaking about candidates or ballot questions. The bill awaits a hearing in the House State Government Committee.

Virginia (Top-Funder Disclaimers for “Electioneering Communications”): Last year, [various threats](#) to free speech and privacy were [defeated](#) in the Republican-controlled House of Delegates, including a Republican-introduced [ban](#) on independent expenditures by “foreign-influenced corporations.” The most significant threat came from [legislation](#) that would have forced nonprofits to publish the names of their top-three donors on the face of messages that merely mention candidates in the lead-up to an election. This top-funder disclaimer requirement for “electioneering communications” would have applied to nonprofits speaking to the public about elected officials’ stances on policy issues. The measure passed the Democratic-controlled Senate on a party-line vote before dying in a House Subcommittee. With Democrats now in control of both chambers of the Virginia General Assembly, the threat of similar anti-privacy legislation becoming law is heightened. Already, Democratic lawmakers have introduced companion bills, [H.B. 276](#) and [S.B. 78](#), that would expand the existing “electioneering communication” definition and require top-three funder disclaimers on messages about policy issues and ballot referenda by 501(c)(3) charities and think tanks, 501(c)(4) advocacy nonprofits, and 501(c)(6) trade associations. While the Senate bill was reported favorably from committee and awaits a vote by the full Senate, the House version was continued to 2025 on a voice vote in the House Privileges and Elections Committee, meaning it will carry over to next

year's session. This particular legislative threat may remain dormant until next year, but privacy advocates should keep an eye out for additional threats that could emerge later in the 2024 session.

Washington (“Foreign-Influenced Corporation” Legislation): After enacting legislation imposing a top-funder disclaimer on so-called “grassroots lobbying” materials in 2023 ([H.B. 1317](#)) and failing for now to pass a measure prohibiting political spending by “foreign-influenced corporations” ([S.B. 5284](#)), lawmakers have [again introduced legislation](#) to ban “foreign-influenced corporations” from making independent expenditures or contributing to political committees. While foreign money in elections is already illegal in every state under federal law and in Washington under existing law, the legislation’s definition of “foreign-influenced corporation” is a clear attempt to [circumvent](#) First Amendment protections recognized by the Supreme Court in *Citizens United*. Under [H.B. 1885](#) and its companion, [S.B. 5832](#), the ban on speaking about candidates or elections [would apply](#) to any company with as little as 1% of its equity owned by a “foreign investor” or 5% owned, in aggregate, by multiple “foreign investors.” In practice, this would strip First Amendment rights from many American businesses controlled and operated by American citizens, whose political engagement is in no way directed by foreign nationals. Such legislation could also impact the speech and privacy rights of nonprofits, particularly business associations, that receive contributions from corporations owned by a multitude of shareholders. At a January hearing in the House State Government & Tribal Relations Committee, election law attorney and former Federal Election Commission Chairman Lee Goodman testified ([at 1:47:40](#)) on the many practical and constitutional issues with the bill. The Senate bill awaits a hearing in the State Government & Elections Committee. As we’ve seen elsewhere, lawmakers’ ostensible interest in eliminating “foreign influence” often manifests as legislation that would undermine *Americans’* free speech and privacy rights. Both H.B. 1885 and S.B. 5832 as well as the 2023 carryover bill, S.B. 5284, should be monitored for movement in the 2024 session.

West Virginia (Anti-Privacy Amendments to PAC Disclosure Proposal and Paid Lobbying Ban): The threat to nonprofit donor privacy in West Virginia is [admittedly low](#) in 2024. However, the potential re-emergence of legislation similar to [S.B. 57](#), which sought to add a broad requirement for political action committees to disclose the names and addresses of their contributors to the Secretary of State, could serve as a vehicle for anti-privacy amendments aimed at nonprofits. The bill did not move any further than committee referrals last session, but its sponsor, Senator Bill Hamilton (R), does serve on both committees to which it was assigned. Another proposal, new for the 2024 session and sponsored by Delegate Henry Dillon (R), would make it a felony to be compensated for lobbying activity in West Virginia. In effect, the bill, [H.B. 5402](#), seeks to criminalize First Amendment-protected lobbying activity. Because of the unprecedented nature of this legislation, it seems unlikely to move, but it should be monitored closely.

Wyoming (Potential Amendments to Unconstitutional 2019 “Electioneering Communication” Law): In addition to an interim committee’s [draft bill](#) expanding the [reach of reporting requirements](#) for electioneering communications and independent expenditures, the Legislature may also attempt to remedy constitutional issues with donor disclosure requirements adopted in 2019. In a successful [First Amendment challenge](#) by the nonprofit organization, Wyoming Gun Owners (WyGO), the U.S. Tenth Circuit Court [ruled](#) last year that the state’s disclosure regime for electioneering communications, as applied to the nonprofit, is unconstitutional. Affirming a [decision](#) by the U.S. District Court for the District of Wyoming, the Tenth Circuit ruled that the provision requiring donor disclosure for contributions that “relate to” electioneering communications is unconstitutionally vague. Relying on the U.S. Supreme Court’s opinion in [Americans for Prosperity Foundation v. Bonta](#), the Tenth Circuit concluded that “the Wyoming disclosure regime is not narrowly tailored as applied to WyGO.” In anticipation of legislative responses to this decision, the Circuit Court’s opinion suggests that “the statute could have outlined an earmarking system” and that the court has “recognized the role earmarking can play in tailoring a disclosure law.” Whether lawmakers will attempt to follow the court’s guidance remains to be seen, but the decision did not foreclose preserving some level of donor disclosure for “electioneering communications.” Considering recent legislative trends in Wyoming, lawmakers’ potential response should be scrutinized.