

PEOPLE UNITED *for* PRIVACY

May 15, 2024

The Honorable Jason Smith
Chairman, House Ways and Means Committee
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member, House Ways and Means Committee
1129 Longworth House Office Building
Washington, DC 20515

RE: Support for Nonprofit Donor Privacy Protections and Concerns with Harmful Privacy, Speech, Compliance, and Enforcement Impacts of Proposed Bills Targeting Alleged Foreign Electoral Interference

Dear Chairman Smith, Ranking Member Neal, and Members of the House Ways and Means Committee:

People United for Privacy (PUFP)¹ submits the following comments concerning the May 15, 2024 full Committee Mark-Up Session concerning the “American Donor Privacy and Foreign Funding Transparency Act” (H.R. 8293), “No Foreign Election Interference Act” (H.R. 8314), and “Foreign Grant Reporting Act” (H.R. 8290). PUFP previously wrote to the Committee in response to the Request for Information (RFI)² on alleged “Political Activities of Tax-Exempt Organizations”³ and submitted comments for the related Oversight Subcommittee hearing⁴ concerning the “Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape.”⁵ At that hearing, both Committee Chairman Smith and Subcommittee Chairman Schweikert emphasized the importance of Americans’ First Amendment right to join and support nonprofits privately.⁶ The inclusion of nonprofit donor privacy protections in

¹ People United for Privacy’s vision is an America where all people can freely and privately support ideas and nonprofits they believe in, so that all sides of a debate will be heard, individuals won’t face retribution for supporting important causes, and all organizations maintain the ability to advance their missions because the privacy of their supporters is protected.

² “Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code,” U.S. House Committee on Ways and Means. Available at: <https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/UPDATED-RFI-on-501c3-and-c4-Activities-FINAL.docx87.pdf> (Aug. 14, 2023).

³ See Matt Nese and Eric Wang, “Request for Information on Political Activities of Section 501(c) Organizations,” People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2023/09/2023-09-04_Comments_PUFP_Response-To-House-WM-Nonprofit-Political-Activity-RFI.pdf (Sept. 4, 2023).

⁴ “Oversight Subcommittee Hearing on Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape,” U.S. House Committee on Ways and Means. Available at: <https://waysandmeans.house.gov/event/oversight-subcommittee-hearing-on-growth-of-the-tax-exempt-sector-and-the-impact-on-the-american-political-landscape/> (Dec. 13, 2023).

⁵ See Heather Lauer and Matt Nese, “The Crucial Importance of Nonprofit Donor Privacy Protections Amidst Overblown Fears and Rhetoric Alleging Foreign Interference in American Politics,” People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2023/12/2023-12-13_PUFP-Letter_US_House-Ways-And-Means-Oversight-Subcommittee_Protecting-Nonprofit-Donor-Privacy.pdf (Dec. 13, 2023).

⁶ Alex Baiocco, “Congress Seeks ‘Common Ground’ in Attacking Nonprofits. Let’s Hope They Don’t Find It.” People United for Privacy. Available at: <https://unitedforprivacy.com/congress-seeks-common-ground-in-attacking-nonprofits-lets-hope-they-dont-find-it/> (Dec. 19, 2023).

Subcommittee Chairman Schweikert’s H.R. 8293 demonstrates a commitment to the First Amendment and an appreciation for the vital role of nonprofits in the American experiment.

PUFP strongly supports those provisions – taken from the “Speech Privacy Act of 2023” (H.R. 4471),⁷ and also included in the “American Confidence in Elections (ACE) Act”⁸ (H.R. 4563) – restricting federal agencies collection and release of nonprofit donor information. Counterintuitively, other provisions of H.R. 8293, along with H.R. 8314 and H.R. 8290, *expand* the power of the Internal Revenue Service (IRS) – a powerful agency infamous for its history of politically-motivated and uneven enforcement of nonprofit reporting requirements⁹ – to collect and release nonprofit donor information. Instead of attempting to rein in the power of the IRS, these bills expand and further entrench the agency’s improper role as the nonprofit speech police, even going so far as to grant the IRS power to enforce a new ban on nonprofits’ political speech. While appreciated, incorporating the Speech Privacy Act, which delivers vital protections for nonprofits and their supporters, does not eliminate this legislative package’s threat to nonprofit speech and privacy rights.

I. Congress should act to prevent violations of nonprofit privacy and speech rights.

Nonprofit organizations’ ability to participate in discussions of policy and social issues without facing government demands for lists of their supporters’ names and home addresses is an essential feature of America’s constitutional and participatory system of government. The U.S. Supreme Court has repeatedly held that the freedom to associate privately is a fundamental component of the First Amendment’s protections for freedom of expression due to the chilling effect of disclosure mandates.¹⁰ Yet, some lawmakers and anti-privacy activists continue to portray associational privacy as a bug or “loophole” that needs to be eliminated. In many cases, opponents of donor privacy simply seek to enable politically-motivated fishing expeditions or engage in name-and-shame attacks against the supporters of groups on opposing sides of policy debates.

⁷ Speech Privacy Act of 2023, H.R. 4471, 118th Cong. (1st Sess.) (2023) Available at: <https://www.congress.gov/118/bills/hr4471/BILLS-118hr4471ih.pdf>.

⁸ American Confidence in Elections Act, H.R. 4563, 118th Cong. (1st Sess.) (2023). Available at: <https://www.congress.gov/118/bills/hr4563/BILLS-118hr4563ih.pdf>. The Speech Privacy Act of 2023 is located in Sec. 308. *See also*, Matt Nese, “Support for the ACE Act’s Robust Protections for Personal Privacy for Nonprofits and their Supporters,” People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2023/05/2023-05-11_PUFP-Letter_US_House-Administration-Committee_ACE-Act-Speech-and-Privacy-Hearing.pdf (May 11, 2023).

⁹ Matt Nese, “It’s Been 10 Years Since the IRS’s Tea Party Scandal. Will Congress Finally Act?” *Reason*. Available at: <https://reason.com/2023/05/10/its-been-10-years-since-the-irss-tea-party-scandal-will-congress-finally-act/> (May 10, 2023).

¹⁰ *See, e.g., NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958); *Americans for Prosperity Foundation v. Bonta*, 594 U.S. at ___ (2021). Other prominent cases supporting a right to maintain privacy in one’s affiliations and memberships include, but are not limited to, *Bates v. Little Rock*, 361 U.S. 516 (1960) (holding unconstitutional a city tax ordinance requiring nonprofit groups to publicly disclose donors); *Shelton v. Tucker*, 364 U.S. 479 (1960) (holding facially unconstitutional a state requirement that public school teachers list all organizations to which they belonged or contributed to in the past five years, even though the list was not public); and *Talley v. California*, 362 U.S. 60 (1960) (holding facially unconstitutional a city ordinance requiring handbills to identify financial supporters). For more information, *see* FN 7 in Bradley A. Smith, “*Americans for Prosperity Foundation v. Bonta*: Questions and Answers,” Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2021/08/2021-08-30_Explainer_Smith_Americans-For-Prosperity-Foundation-v.-Bonta-QA.pdf (Aug. 30, 2021).

A. The Speech Privacy Act, included in the American Donor Privacy and Foreign Funding Transparency Act, codifies Supreme Court precedent and delivers proactive safeguards for the First Amendment rights of nonprofits and their supporters.

Despite decades of precedent affirming the right to privacy in association, the California Attorney General began demanding in 2014 that nonprofits expose their supporters to state officials as a condition of operating and fundraising in the state. In 2021, the U.S. Supreme Court ruled in *Americans for Prosperity (AFPF) v. Bonta* that this donor disclosure mandate was unconstitutional under the First Amendment, reaffirming previous associational privacy-protective rulings such as 1958's *NAACP v. Alabama* and 1960's *Bates v. City of Little Rock*.¹¹ While the nonprofits that sued California in an effort to protect the privacy of their supporters ultimately prevailed, it took seven years of expensive litigation to do so. In the meantime, thousands of nonprofit organizations were forced to make an impossible choice between exposing their members and supporters to California's Attorney General's Office – who carelessly outed thousands of confidential records listing donor identities on a public website – or suspending their fundraising operations in America's most populous state for years while the case moved through the courts.

Despite more than six decades of rulings from the Supreme Court upholding the privacy rights of donors to nonprofit causes, efforts to violate personal privacy rights continue unabated in Congress, at regulatory agencies, and in states across the country.¹² Indeed, in 2024 alone, People United for Privacy forecasted legislative threats to nonprofit advocacy and donor privacy in **31 states** across the country.¹³ The lesson is clear: Without proactive legislation to protect donor privacy, Supreme Court precedent alone will not deter government officials from attempting to seize and expose this highly sensitive information.

The Speech Privacy Act delivers necessary protections and safeguards every Americans' freedom to join together in support of a cause. Without the statutory shield provided by the Speech Privacy Act, nonprofits will be forced to spend significant sums, if they can even afford to do so, to defend the constitutionally-protected rights of their donors when faced with unconstitutional demands for their member and supporter list. Congress should act to codify and enforce *AFPF v. Bonta* and related decisions by passing the protections found in the Speech Privacy Act instead of relying on nonprofit resources and lengthy litigation to uphold vital First Amendment rights.

¹¹ See note 10, *supra*.

¹² In Congress, *see, e.g.*, Alex Baiocco, "Congress Seeks 'Common Ground' in Attacking Nonprofits. Let's Hope They Don't Find It." People United for Privacy. Available at: <https://unitedforprivacy.com/congress-seeks-common-ground-in-attacking-nonprofits-lets-hope-they-dont-find-it/> (Dec. 19, 2023) and Eric Wang, "Analysis of H.R. 1 (Part One): 'For the People Act' Is Replete with Provisions for the Politicians," Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2021/02/2021-02-22_IFS-Analysis_HR-1_DISCLOSE-Honest-Ads-And-Stand-By-Every-Ad.pdf (Feb. 2021). At the state level, *see, e.g.*, Alex Baiocco, "Unlikely Allies Thwart Privacy Threat in Oregon," People United for Privacy. Available at: <https://unitedforprivacy.com/unlikely-allies-thwart-privacy-threat-in-oregon/> (April 24, 2024); Alex Baiocco, "Bipartisan Opposition Sinks Multi-Year Crusade to Violate Mainers' Privacy," People United for Privacy. Available at: <https://unitedforprivacy.com/bipartisan-opposition-sinks-multi-year-crusade-to-violate-mainers-privacy/> (March 4, 2024); and Alex Baiocco, "Oklahoma Lawmaker Asks Ethics Commission to Dox Nonprofit Donors," People United for Privacy. Available at: <https://unitedforprivacy.com/oklahoma-lawmaker-asks-ethics-commission-to-dox-nonprofit-donors/> (Feb. 14, 2024).

¹³ Matt Nese and Alex Baiocco, "Forecasting 2024 State Threats to Nonprofit Advocacy and Donor Privacy," People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2024/02/2024-02-12_PUFP-Memo_Forecasting-2024-State-Threats-To-Nonprofit-Advocacy-And-Donor-Privacy.pdf (Feb. 12, 2024).

B. Expanding nonprofit disclosure requirements and restricting nonprofit advocacy rights undermine the intent of the Speech Privacy Act and put hard-earned pro-privacy reforms at risk.

The Speech Privacy Act generally prohibits federal agencies, including the IRS, from collecting or releasing nonprofit donor information unless required by law or a court order. By contrast, H.R. 8293 creates new nonprofit reporting requirements that expand the agency's power to collect and publicly release information about nonprofit donors. The new disclosure requirements explicitly fit within the Speech Privacy Act's exceptions for legally required collection of information. In other words, the disclosure requirements in H.R. 8293 are designed to bypass the privacy protections in H.R. 8293.

While the new disclosure requirements in H.R. 8293 do not directly implicate the privacy of American donors, any additional government power to collect information about nonprofit donors creates new opportunities to abuse that power and new risks to Americans' speech and privacy rights. Especially in conjunction with the new restrictions on nonprofit speech in H.R. 8314, also enforced by the IRS, expanded nonprofit reporting requirements increase the likelihood that overzealous or biased bureaucrats will find new justifications for fishing expeditions that expose the identities of American donors to public scrutiny.

In 2020, citing the cost and difficulty of protecting sensitive data, the IRS ended a nonprofit donor disclosure requirement the agency said was unnecessary to enforce the law.¹⁴ Under H.R. 8314's ban on contributions to independent expenditure-only committees, known informally as "super PACs," which applies according to the identities of a nonprofit's supporters, the IRS may find reason to begin recollecting the identities of American nonprofit donors who are currently able to remain private. Making matters worse, nonprofits would need to make eight years of donor records accessible to agency officials in order to verify compliance with the contribution ban.

II. Banning currently legal contributions, as the No Foreign Election Interference Act would, is a direct restriction on nonprofit speech and increases the threat to American donors' privacy.

The act of contributing to political action committees is protected speech and association under the First Amendment. Nonprofits that do not accept tax-deductible donations may engage in limited political activity, so long as that is not their primary purpose. While nonprofits may not contribute to candidates' campaigns or traditional PACs, First Amendment precedent protects the right of nonprofits to contribute to super PACs, which operate independent of candidates and political parties. H.R. 8314's conditional ban on protected speech is contrary to the First Amendment and constitutes a prior restraint on speech. Furthermore, the ban relies on dangerous theories hostile to speech and privacy rights that have been used to justify proposals meant to undermine First Amendment protections.

¹⁴ IFS Staff, "IRS Privacy Reform a Long-Sought Victory for Free Speech," Institute for Free Speech. Available at: <https://www.ifs.org/news/irs-privacy-reform/> (May 26, 2020).

The Federal Election Commission (FEC), in accordance with First Amendment precedent and the statutory requirements of the Federal Election Campaign Act (FECA), does not consider a nonprofit's donors to be contributors to a super PAC simply because that nonprofit contributed to the super PAC. Furthermore, it is illegal for anyone to use nonprofits as intermediaries to funnel contributions to super PACs in order to avoid disclosure requirements or the ban on foreign contributions.¹⁵

Banning American nonprofits from giving to super PACs simply because the organization received a single donation from a foreign individual or entity in the past eight years advances the extreme theory that every donor to a nonprofit should be treated as a contributor to a super PAC that receives a contribution from that nonprofit. This same theory underlies many of the most significant threats to donor privacy that have been proposed in Congress, such as the so-called "DISCLOSE Act."¹⁶ Nonprofits cannot be forced to sacrifice their right to engage in First Amendment-protected activity for eight years as a condition of accepting an otherwise legal donation.

The potential for weaponization of this restriction should not be overlooked. Nonprofits' ideological opponents could easily arrange for a foreign national to make a small donation in hopes that it will be unaccounted for or perhaps forgotten by the time the nonprofit contributes to a super PAC at some point in the next eight years. This misuse of the law could be employed against a virtually limitless quantity of nonprofits in order to maximize the potential for successful sabotage. Nonprofits should not have to contend with this sort of gaming of the system by those who oppose their missions.

III. Requiring nonprofits to collect and verify the citizenship status of their supporters imposes significant compliance burdens and effectively bans anonymous donations.

Nonprofits routinely receive donations without the ability or resources to verify the citizenship status of the donor. In many cases, it is not possible to obtain such information without expending significant time and effort. The potential compliance costs of a foreign donor reporting regime will bankrupt many volunteer-led or grassroots organizations and will certainly divert precious funds that would otherwise be used in furtherance of nonprofit missions.

In addition to the compliance burdens of collecting citizenship information, the reporting requirements in H.R. 8293 effectively ban anonymous gifts to nonprofits. Citizenship status cannot be verified without identifying information. The dramatic impact of these requirements on the entire nonprofit sector should not be ignored by Congress. Anonymous giving is not only a time-honored tradition in American philanthropy, it is a protected constitutional right.

IV. These proposals grant the IRS substantial power to decide how to enforce disclosure requirements and speech restrictions that have no relation to revenue collection.

¹⁵ See 52 U.S.C. § 30122 (prohibiting contributions in name of another).

¹⁶ See Matt Nese, "Opposition to the DISCLOSE Act and its Destructive Impact on Nonprofit Advocacy and Citizen Privacy," People United for Privacy. Available at: https://unitedforprivacy.com/wp-content/uploads/2022/07/2022-07-25_PUFP-Letter_US_Senate-Rules-Committee_DISCLOSE-Act-Hearing.pdf (July 25, 2022).

The U.S. Government Accountability Office report widely cited by the aforementioned RFI states, “According to IRS officials, the IRS administers and enforces federal tax law and it plays no role in enforcing FECA’s foreign national prohibition.”¹⁷ Indeed, the IRS is a tax collection agency, and it is unfit to enforce the Federal Election Campaign Act’s prohibition on foreign contributions. Reconfiguring the prohibition and placing it within the Internal Revenue Code does not change this reality.

The IRS does not regulate political action committees, which are defined by the FECA and overseen by Federal Election Commission regulations. Unlike the FEC, the IRS has neither the expertise nor the appropriate structure to regulate political activity while balancing such decisions with the fundamental First Amendment and donor privacy concerns at stake. The agency’s shortcomings in this area have been on full display – and the subject of widespread condemnation – over the last decade, from the Tea Party targeting scandal in the early 2010s, to the agency’s ham-fisted response in issuing an ill-considered and ill-fated proposed rulemaking on political activity,¹⁸ to leaks by the agency of conservative organizations’ private donor information.¹⁹

The FECA already prohibits foreign nationals from making contributions and expenditures in connection with U.S. elections.²⁰ This prohibition is broad and covers contributions that are made “directly or indirectly,” such as routing money to a super PAC through a Section 501(c) nonprofit organization.²¹ Section 501(c) organizations are also prohibited from soliciting, accepting, or receiving a contribution from a foreign national to influence U.S. elections.²²

Additionally, the FECA prohibits contributions from being made “in the name of another person.”²³ As the U.S. Department of Justice explains,²⁴ “violations occur when a person gives money to straw donors, or conduits, for the purpose of having the conduits pass the funds on to a specific federal candidate [or PAC] as their own contributions.”²⁵ Routing a foreign national’s political contribution through a Section 501(c) organization would further violate the FECA’s ban on contributing in the name of another person.

¹⁷ “Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives,” U.S. Government Accountability Office. Available at: <https://www.gao.gov/assets/710/705927.pdf> (Feb. 3, 2020) at 42.

¹⁸ IRS, Notice of Proposed Rulemaking on Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, 78 Fed. Reg. 71535 (Nov. 29, 2013). Available at: <https://www.govinfo.gov/content/pkg/FR-2013-11-29/pdf/2013-28492.pdf>. See also, Matt Nese and Kelsey Drapkin, “Overwhelmingly Opposed: An Analysis of Public and 955 Organization, Expert, and Public Official Comments on the IRS’s 501(c)(4) Rulemaking,” Institute for Free Speech. Available at: https://www.ifs.org/wp-content/uploads/2014/07/2014-07-08_Issue-Review_Nese-And-Drapkin_Overwhelmingly-Opposed.pdf (July 21, 2014).

¹⁹ See, e.g., Paul Abowd, “IRS ‘outs’ handful of donors to Republican group,” The Center for Public Integrity. Available at: <https://publicintegrity.org/politics/irs-outs-handful-of-donors-to-republican-group/> (Apr. 4, 2013) and “IRS agrees to \$50,000 settlement in leaking of conservative group’s donor records,” Fox News. Available at: <https://www.foxnews.com/politics/irs-agrees-to-50000-settlement-in-leaking-of-conservative-groups-donor-records> (June 24, 2014).

²⁰ See 52 U.S.C. § 30121.

²¹ *Id.* § 30121(a)(1).

²² *Id.* § 30121(a)(2).

²³ *Id.* § 30122.

²⁴ While the FEC has authority over civil FECA violations, the Department of Justice (DOJ) has authority over criminal FECA violations.

²⁵ Craig C. Donsanto and Nancy L. Simmons, “Federal Prosecution of Election Offenses, 7th Ed.,” U.S. Department of Justice. Available at: <https://www.justice.gov/sites/default/files/criminal/legacy/2013/09/30/electbook-rvs0807.pdf> (rev. Aug. 2007) at 166.

In short, the FECA already includes a regulatory scheme to address foreign nationals making contributions to affect U.S. elections, whether directly or indirectly. There is no reason to enmesh the IRS in this issue any more than there is reason to entangle the IRS with any other political activity issues.

The dangers of biased and selective enforcement loom large as well. Given the partisan animations frequently underlying disclosure campaigns, is it a stretch to envision enforcement of such laws occurring on an uneven basis, heavily dependent on the whims of the party in power? Would reproductive rights activists be comforted by enforcement of such laws under a conservative administration? Are pro-life advocates likely to be treated fairly by a liberal administration empowered to assess the veracity of nonprofit filings about an organization's sources of foreign support?

Abuse by government regulators is hardly the only concern in the enforcement context. Proposals requiring reporting about foreign donors to nonprofits risk empowering an organization's ideological opponents with a powerful weapon if a third-party complaint process is authorized. Regardless of whether a complaint has merit, it will paralyze the targeted nonprofit, drowning the organization in legal costs, diverting resources from its mission, and sully the group's reputation while the complaint process plays out. In this scenario, the process is the punishment.

The IRS is not designed to be a disclosure agency and lacks the FEC's regulatory focus, bipartisan structure, and agency expertise to regulate political activity. Instead of tasking the IRS with enforcing disclosure requirements and contribution bans while simultaneously empowering biased regulators and third-party actors with a new weapon to attack their ideological foes, Congress should remove such matters from the IRS's jurisdiction altogether. In addition to the FEC's longstanding civil enforcement of the FECA, the DOJ aggressively prosecutes cases of foreign election interference.

V. Expanded disclosure requirements assist foreign adversaries' efforts to suppress critics and risk making American nonprofits targets of foreign government actors.

Instead of protecting American democracy from foreign adversaries, this legislation would likely assist oppressive regimes in their efforts to stamp out valuable pro-democracy work. Exposure of the names and addresses of foreign-based human rights organizations receiving funding from American nonprofits would not only threaten those organizations' ability to operate in many countries but would also create an immediate safety concern for those affiliated with such organizations.

Publicly available data on which American nonprofits are receiving contributions from Chinese citizens, who may be living in the United States, could make those groups targets of sophisticated hacking operations and present legitimate safety concerns for all of their supporters. For Chinese-American immigrants with family in China, handing the Chinese Communist Party such data is likely to be enough to decide supporting nonprofits critical of the CCP isn't worth the risk.²⁶ Similar concerns apply to American

²⁶ See, e.g., Dr. Jianli Yang, "When Donor Privacy is a Life or Death Matter," *RealClearPolicy*. Available at: https://www.realclearpolicy.com/articles/2022/07/15/when_donor_privacy_is_a_life_or_death_matter_842585.html (July 15, 2022).

nonprofits engaged in support of (or opposition to) Israeli policy, organizations tied to the Catholic Church, and groups working on tax policy or tourism with international ramifications, among countless examples.

Many U.S.-based nonprofits do important work in countries around the globe. And many American nonprofits have deep ties to communities in other countries. Broad disclosure requirements could have a global impact that wreaks havoc on a sizable portion of the nonprofit sector. Indeed, “foreign influence transparency” laws are already employed in authoritarian nations to ban the work of organizations deemed “foreign agents.”²⁷ Instead of bolstering the strength of our democracy against its enemies, these bills risk aiding our adversaries in their anti-democracy efforts, while also enabling them to excuse criticism of their own speech-suppressing “transparency” laws by pointing to similar American laws.

* * *

This Committee has consistently expressed concern over the power of the IRS and the potential for political abuse of such power. Yet, the legislative proposals scheduled for consideration on May 15, 2024 increase the power of the IRS and create new opportunities for politically targeted, uneven enforcement. There’s no legitimate rationale for empowering a tax-collecting agency with preventing foreign interference in our elections or enforcing a novel ban on contributions to political committees, which are regulated by the FEC, not the IRS.

In contrast to the nonprofit advocacy and donor privacy protections in the Speech Privacy Act, the remaining provisions of the American Donor Privacy and Foreign Funding Transparency Act, No Foreign Election Interference Act, and Foreign Grant Reporting Act achieve little more than undermining decades of First Amendment precedent, expanding IRS power beyond its proper jurisdiction, and enabling misleading smear campaigns against all donors, including Americans, to U.S.-based nonprofit organizations.

We encourage the Committee to seriously consider whether IRS enforcement of novel speech restrictions and privacy violations is an appropriate or effective means of addressing allegations of foreign election interference and encourage these measures to be withdrawn for further consideration.

Sincerely,



Matt Nese
Vice President
People United for Privacy

²⁷ See, e.g., Ekaterine Maghaldadze, “Georgia poised to adopt ‘foreign influence transparency’ law akin to Russia’s,” Voice of America. Available at: <https://www.voanews.com/a/georgia-poised-to-adopt-foreign-influence-transparency-law-akin-to-russia-s/7600259.html> (May 6, 2024).