THE ISTOOK-McINTOSH-EHRLICH PROPOSAL

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

SEPTEMBER 28, 1995

Printed for the use of the Committee on Government Reform and Oversight

U.S. GOVERNMENT PRINTING OFFICE

26–404 CC WASHINGTON : 1996

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-052980-8

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THE ISTOOK-McINTOSH-EHRLICH PROPOSAL

THURSDAY, SEPTEMBER 28, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:20 p.m., in room 2154, Rayburn House Office Building, Hon. David McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, McHugh, Ehrlich, Tate, Scarborough, Gutknecht, Peterson, Waxman, Spratt, Slaughter, Condit, and Meek.

Ex officio present: Representative Collins.

Also present: Representative Istook.

Staff present: Mildred Webber, staff director; Jon Praed, chief counsel; Todd Gaziano, senior counsel; Karen Barnes, professional staff member; David White, clerk; David Schooler, minority chief counsel; Bruce Gwinn, minority senior policy analyst; and Elisabeth Campbell, minority staff assistant.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order.

Mrs. COLLINS. Mr. Chairman. Mr. Chairman.

Mr. PETERSON. Mr. Chairman.

Mr. MCINTOSH. Mrs. Collins.

Mr. PETERSON. If I might, we have Mr. Skaggs, who would like to sit with the committee, Mr. Chairman, if that would be all right with you.

Mr. MCINTOSH. That is fine with me.

Mrs. COLLINS. Yes, that's what I was going to ask.

Mr. MCINTOSH. Yes.

Mrs. COLLINS. That he be permitted to sit with the committee. As you know, it was considered that he be permitted to sit with the committee and to ask questions.

Mr. PETERSON. Yes, that has been worked out.

Mr. MCINTOSH. What we were going to do—and we haven't really adopted a formal policy on this. Mr. Istook joined us for one of the previous hearings. Mr. Skaggs is welcome. I was hoping to have the questioning time reserved for the members.

I'm really quite amenable either way, but I would like to have the policy be that, however you want it for this one, but I would like to work out with Mr. Peterson a policy for the future on that, so we're fair to everybody.

Mrs. COLLINS. But you said for this one he could? I can't hear down here.

Mr. MCINTOSH. I'm being advised by the full committee that it probably wouldn't be a good precedent to do that. He's welcome to make a statement and join us for the hearing.

Mr. SKAGGS. If I may, Mr. Chairman, I'll participate on the witness panel.

Mr. MCINTOSH. Certainly.

Mrs. COLLINS. Mr. Chairman, before we begin, because I don't want to interrupt the flow of the hearing once we get started, Mr. Skaggs has requested that he receive live audio coverage at this hearing from a company known as the National Narrowcast Network.

They are on the list of approved companies by the Committee on Government Oversight, and, as you know or may be aware, the House Oversight Committee sent a Dear Colleague to all members, telling them that they could request a service from the list of approved companies and pay for it out of their own office expense account.

Now, Mr. Skaggs has been told by the company that the committee has refused permission for them to broadcast this hearing to his own office, despite the fact that they are on the approved list and have covered hearings in our committee for the past 3 years. Would you mind explaining why you are denying the permission to broadcast this particular hearing to members' offices to their own expense?

Mr. MCINTOSH. It's my understanding that the House Oversight Committee hasn't made a decision among various vendors for that type of service. I certainly, in principle, don't have an objection to that happening, but we were not given authority to allow that type of proceeding. Apparently, the room is also not wired for it, and they would be required to spend funds in order to do that.

Mrs. COLLINS. I see. Thank you, Mr. Chairman.

Mr. MCINTOSH. If you like, Mrs. Collins, I'll be glad to take it up with them, because I think it would be a good idea in the future to be able to have that type of narrowcast service.

Mrs. COLLINS. Well, I would certainly like, and I would appreciate if you would. Thank you very much, Mr. Chairman.

STATEMENT OF HON. DAVID McINTOSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. MCINTOSH. Thank you. Mr. Peterson, any other? Thank you all for coming. Let me begin with opening statements. I do appreciate the witnesses' coming today. Your testimony will indeed assist us in examining and putting an end to taxpayer-subsidized lobbying or welfare for lobbyists.

There has been a great deal of fiery rhetoric about this issue in this town for the last month-and-a-half. It's not surprising. When Congress sheds light on one of Washington's best kept dirty little secrets, the Washington lobbyists are going to scream.

Unfortunately for them, the truth will point out how the taxpayer is indeed subsidizing Washington lobbying efforts. These groups are engaged in a massive campaign of disinformation, distortion, and scare tactics, aimed at riling up the very groups who

are not lobbying, but are real charities. Today's hearing will bring out the truth.

Many members of the subcommittee are freshmen. We came here to Washington to make sure that we put an end to business as usual. They sent the message. Our voters sent the message to clean up the special interest mess here in Washington.

When I tell my constituents back in Muncie, IN, that their taxpayer dollars are being used to subsidize special interest lobbying activities here in Washington, particularly activities to spend more money on grants that go to the lobbyists, my constituents are shocked and outraged.

Congress must be accountable for how the taxpayer dollars are spent. Are they subsidizing lobbying or political efforts? Are they being channeled to lobbying groups through secret, back-channel grants? Our goal is to tear down the veil of secrecy that surrounds 40 years of political patronage.

As G.K. Chesterton said, "Men can always hide, provided they are behind something that is big enough." Certainly $39 billion is big enough. But no longer. We are here today to protect the taxpayer.

It is important to remember that a key distinction in the McIntosh-Istook-Ehrlich Amendment is that it separates real charities who provide services to the community, on the one hand, from lobbyists who receive Federal grants, on the other hand.

As testimony from Arianna Huffington showed, the Ehrlich provision will actually strengthen real charities. It also insures that they are not distracted from helping the poor by being enticed into becoming lobbying groups. Tax-exempt contributions should go to those who really need help, not to lobbying efforts.

Unfortunately, the Washington special interest groups don't want the American people to find out the truth. Some facts that we already know: First, the problem clearly exists. We need only to look at the National Council of Senior Citizens to understand this. The NCSC receives 96 percent of its funds from the American taxpayers, six times as much as the Public Broadcasting Corp.

When they receive so much taxpayer funding, they have virtually become a Government agency, yet the NCSC operates a political action committee. Clearly, it's participating in political ad campaigns to stop this Congress from balancing the budget and aggressively lobbies Congress.

Now, I know that President Clinton, in his heart of hearts, would love to have Federal agencies lobbying and setting up a political action committee, but it's not the American way.

The conflict of interest is enormous. When someone receives $70 million of taxpayer money, how can they possibly separate their private self-interest from their lobbying activities? The NCSC should be no more permitted to engage in partisan politics than the Department of Commerce or the Internal Revenue Service or any other agency.

Today we will hear from a Member of Congress, one of my freshman colleagues, Jim Longley, who knows firsthand how hard the NCSC is lobbying.

Second, we have a problem that many legitimate charities that are not affected by our efforts to end welfare for lobbyists have

been scared into believing that their voices will be silenced. Nothing can be further from the truth. We have worked hard in crafting the Istook amendment to insure that legitimate charities don't become lobbyists.

Certain activities, such as testifying before city councils or before Congress or representing individuals who are having a case work problem before an agency are simply not covered in our definition of advocacy, and, in our bill, with its 5 percent de minimis exception, many groups can spend millions of dollars on lobbying.

For example, based on IRS data provided by the independent sector, we estimated that even under our amendment, for example—and I'll point to this chart behind me right here—the Red Cross can spend at least $17.7 million in lobbying. The Boy Scouts can spend at least $1.6 million in lobbying.

The Girl Scouts can spend at least $1.3 million in lobbying. The American Lung Association can spend at least $1 million on lobbying. The American Heart Association can spend at least $5 million on lobbying. The United Way can spend at least $1 million on lobbying, and the YMCA, which is joining us today, can spend $1.2 million on lobbying.

By the way, under our bill, if they don't take Federal funds, they can spend any amount they want on lobbying and political activity. Hopefully, they tell their donors about this activity, but, in any case, it's OK under our bill, because it's only a small part of their total program. They have not become primarily big lobbying outfits.

These are the facts that we know. This hearing can help us learn even more. We've invited two of the most vocal opponents of our legislation, OMB Watch and Alliance for Justice, to share with us their concerns. We will have a chance to examine the specific concerns that these witnesses have with our amendment. Hopefully, we will better understand how they would craft the legislation.

We welcome constructive comments, and are here today to listen. In preparation for today's hearing, we sent each of the witnesses a series of questions regarding their funding and engagement in political activities.

Some of the witnesses have objected to the questions and refused to respond on certain points. Now, I will honor the right to keep private donor lists secret if they choose to, but not if that secrecy is used to cover up a paper trail that leads back to taxpayer subsidies for lobbying efforts.

They have said they don't receive taxpayer subsidies, but seem to be unwilling to share with us what type of joint ventures they have with Federal grant recipients, how much of their money and operational support comes from other groups who, in turn, received taxpayer grants. I would like to know what they're hiding.

Our goal in asking these questions is the same as our goal for this hearing. We want to protect the taxpayers' hard-earned dollars. We want to insure that public money is not being used to subsidize political activities. The only way to be sure of that is to be fully accountable to the taxpayer, to examine where these Federal grants go and how they are spent.

I hope our witnesses will agree that when it comes to public money, taxpayer dollars, disclosure is not only reasonable, but the duty of everyone who benefits from these taxpayer subsidies.

I know that my colleagues and I want to see a useful dialog. We know there is a problem that must be addressed. We have crafted our solution, and we are here today to examine the details. We will put an end to Washington's dirty little secret. This Congress will not go home until there is no more taxpayer welfare for lobbyists.

Thank you very much. Let me turn now to Mr. Peterson for his opening statement.

STATEMENT OF HON. COLLIN PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. PETERSON. Thank you, Mr. Chairman, and I'll be brief so we can get on with the business of the hearing. I hope that we come out of the hearing with some more information, which I trust we will, but I would just like to say that, you know, I've been a somewhat reluctant supporter of your legislation.

I support the concept. I have some concerns, as you know, about the way it's going to be implemented, but the more I think about this, I think we all need to step back a little bit and realize that the Federal Government is broke. I mean we're literally bankrupt.

We are still spending almost $200 billion more than we're taking in, and, frankly, maybe it's something we ought to think about, why are we giving out grant money when we are, in fact, having to borrow the money in the first place? If we end up with a piece of legislation that makes it so that people don't want to take grant money, that might be a good thing in helping us balance the budget.

So I take a little bit a different view of this whole thing, because I think it really is a legitimate question, and if we're ever going to get serious—and I am one of those that's completely, 100 percent serious about balancing this budget as quickly as possible—this might be a way that will help us move in that direction.

I'm going to continue to work with you, and I hope that, through this process, we can get some of the concerns that I had in terms of the reporting and the bureaucracy that I think might be added because of this, but, given my previous remarks, I think that might not be all bad, either, because it might wean some people off of this whole system.

So I appreciate the hearing. I hope that we accumulate some more good information, and I look forward to hearing the testimony.

Mr. MCINTOSH. Thank you very much, Mr. Peterson. I was going to turn back and forth between the sides. Is that fine with you, Mrs. Collins? Thank you.

Let me now turn to a cosponsor of this amendment, representative from Maryland, Robert Ehrlich.

Mr. EHRLICH. Thank you, Mr. Chairman. I will also forego an opening statement, because we are here today to listen to what you have to say and, hopefully, to engage you all in a continually constructive dialog.

One point, however, Mr. Chairman, that we made this morning, and I want to reiterate today. I congratulate you for inviting two of the major opponents to this piece of legislation to this hearing today.

It is but a mere continuation of the process that began many, many weeks ago, and I know our respective personal staffs, in addition to committee staff, have spent hours and hours and hours meeting with impacted and allegedly impacted groups concerning specific issues those groups have brought to our attention.

That's constructive. We appreciate it. I believe the record will show we've listened. We haven't always agreed, but we've certainly listened. This hearing today is yet a mere subsequent chapter to that sort of process, and I congratulate you for adopting that process in the context of this very controversial piece of legislation.

Mr. MCINTOSH. Thank you very much, Mr. Ehrlich. Thank you for your hard work in drafting this amendment. Let me turn now to Mrs. Collins for a statement.

STATEMENT OF HON. CARDISS COLLINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mrs. COLLINS. Thank you, Mr. Chairman. This is the subcommittee's fourth hearing on legislation to curb alleged abuses by Federal grantees that engage in political advocacy. So far, no example of wrongdoing has been uncovered. Proponents of this legislation have every reason, therefore, to continue these hearings, because they are in desperate need of something to justify this bill.

However, they're not likely to get the justification they seek from today's witnesses. Three of the organizations testifying today—the Alliance for Justice, OMB Watch, and the St. Florian Center—are not—and I repeat, they are not Federal grantees. Since they receive no Federal grants, they would not be covered by the legislation we're discussing.

Nevertheless, these groups received an extensive set of questions from the majority staff on the subcommittee asking about their political activities and a great many questions about their tax-exempt status. Not only is it curious why groups not covered by the legislation are asked these questions, but it's also not at all clear what relevance the questions have to this particular bill.

The legislation we are discussing applies equally to all Federal grantees, whether they are for-profit organizations or nonprofit organizations. The tax status of the organization, therefore, has absolutely no bearing whatsoever on the restrictions contained in the legislation.

And well it should not. Some of the biggest recipients of Federal grants are major American corporations, not nonprofits. Just to name a few, there's Lockheed, which received over $46 million in Federal grants in fiscal year 1974. Xerox received $20 million, and Martin Marietta was awarded $10 million in grants, and they lobby the House and Senate every day, including Saturdays and Sundays.

Furthermore, if we are concerned about Federal grants enabling recipients to engage in lobbying, should we not also be concerned about Federal defense and other contracts that are enabling companies to do lobbying of that sort. The fact is that far more Federal money is given out in Federal goody contracts than in grants, and goody contract recipients are every bit as dependent on the taxpayer as grantees.

For example, in 1993, the McDonnell Douglas Corp. was awarded defense contracts worth $7.5 billion, representing 52 percent of its total revenues. Lockheed got contracts totaling $6.9 billion that accounted for 53 percent of its revenues. The General Dynamics Corp. received $2.1 billion in defense contracts at a time when we were in peace, and that represents a whopping 68 percent of that company's total revenues.

Now, I firmly believe this legislation is a bad idea. However, if it makes sense to restrict the political activities of Federal grantees, it must also make sense to similarly restrict the activities of Federal contractors.

Why should the YMCA, that provides day care services for children, be restricted in its advocacy, while insurers that provide health services for Government employees aren't? Federal contractors of all types lobby heavily. Last year, health insurers, many of whom received Federal contracts, helped pay for the Harry and Louise telephone ads that were used to defeat the President's health plan.

Private catering firms that operate Government cafeterias also lobbied heavily against the employer mandate in the health plan, itself.

There's another matter that I would like to address, and that is my concern that these hearings, in fact, not be used to intimidate groups who oppose the Republican agenda here in this Congress. Last Friday, just hours after they staged a demonstration in opposition to the Republican plan to increase Medicare taxes and to cut Medicare and Medicaid benefits, the National Council of Senior Citizens was asked to be a witness at this hearing.

Their invitation was faxed to them on Friday afternoon, together with the same set of questions regarding their tax-exempt status that was sent to the Alliance for Justice and to OMB Watch. Again, no explanation was given as to the relevance of the National Council's tax status to this legislation.

Now, the National Council is a Federal grantee. For more than 20 years, it has run a national program for the Department of Labor that employs low-income senior citizens. It's this program that pays the salary of many senior citizens who work in day care facilities, Head Start, and many other programs designed to serve our young people.

Yet the National Council does much more than this. It takes positions and actively participates when issues affecting the elderly are being considered. The Republican plan to cut Medicare and Medicaid benefits and to raise the Medicare tax is, without any question, the most serious and the most important issue facing senior citizens today.

The National Council of Senior Citizens has every right, in fact it has a duty, to speak out on the changes Republicans plan to make in the Medicare and the Medicaid programs.

These programs and these hearings—particularly these hearings—must never be used to restrict participation in this very important debate by the National Council of Senior Citizens or any other group. This is the people's House, and in this House, the right of every citizen to petition the Federal Government that gov-

erns their lives must not only be tolerated, it must be absolutely honored and held revered by every American.

I yield back the balance of my time.

Mr. MCINTOSH. Thank you very much, Mrs. Collins. Our next member for an opening statement is Mr. Scarborough. Would you yield me 15 seconds to just correct one thing in the record?

Mr. SCARBOROUGH. I certainly will, Mr. Chairman.

Mr. MCINTOSH. It is the purpose of the legislation to cover for-profit corporations, as well as not-for-profits, who receive a grant, and whether or not they're conservative or liberal in their political agenda, our point simply is, if they receive taxpayer money, they shouldn't be lobbying with the taxpayer's dime.

Mr. Scarborough.

STATEMENT OF HON. JOE SCARBOROUGH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SCARBOROUGH. Thank you, Mr. Chairman. I just wanted to briefly align myself with your position and thank you for having these hearings, and I would also like to commend Congressman Peterson for asking a very important question. When we're $4.9 trillion in debt, why are we providing money to people to lobby Congress to ask for more money?

I just find some Democrats' position on this to be very curious. We heard about corporate welfare. Well, I was sitting in this committee, on another subcommittee, when it was the Democrats who continued to support corporate welfare and the corporate welfare that's contained in the Commerce Department, the last great bastion of corporate welfare in Washington, DC.

And yet it's the Republicans who are trying to get rid of corporate welfare in the Commerce Department, and it's some members of the liberal Democratic party that continue to support corporate welfare. Now, today, we find that the Democrats have aligned themselves not only on the side of corporate welfare, but also, now, are aligning themselves on the side of welfare for lobbyists.

I mean, my goodness, it just doesn't make a whole lot of sense to me, when we're $4.9 trillion in debt, that we've got liberal Democrats who still don't realize that we don't have money to throw at corporations for corporate welfare, and we don't have money to throw to lobbyist organizations for lobbying welfare.

Yes, this is the people's House, but the one thing that so many in the people's House keep forgetting is, the people's House spends the people's money, and today, we still have people that want the people's House to keep spending the people's money on welfare for lobbyists.

It's beyond me. I don't understand it. I think we have to be accountable to the taxpayers, and that's why I support your bill, Mr. Chairman, and look forward to these hearings.

I yield back the balance of my time.

Mr. MCINTOSH. Thank you very much, Mr. Scarborough. I think I'll just go in order, if that's OK on your side, rather than when people arrive. The next Congressman would be Mr. Waxman for an opening statement.

STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Mr. Chairman. I believe a very dangerous trend is occurring in the Congress, and I call it the rise of the imperial Congress, and this hearing is a part of it. Again and again, we are witnessing the Republican leadership try to quash debate and ram legislation through without hearings. The ruling principle seems to be to silence those who disagree with the new ideological agenda.

The legislation on Medicare and Medicaid is one example. Unprecedented changes to these programs are being proposed by the Republicans, but when the Democrats ask for hearings and an opportunity to air our concerns, Speaker Gingrich turns them down, saying, "I don't have any interest in playing debate games."

Despite the overwhelming importance of Medicaid, the public is given no opportunity to voice its views on the radical Republican proposals. Indeed, the Democrats are even denied a room in which to hold our hearing on the legislation.

Today's hearing is another example of this same principle at work. The gag rule we are considering is the first time Congress has ever tried to restrict political expression paid for with private donations.

The nonprofit organizations subject to the gag rule aren't being harassed because they lobby with Federal funds. We already have laws making this illegal. Rather, these organizations are being targeted because they don't pass the new majority's political correctness test.

Some nonprofit organizations have been courageous enough to speak out against the gag rule. The subcommittee's response has been to escalate the intimidation. The witnesses testifying today against the gag rule have suddenly found themselves targeted by subcommittee investigators seeking confidential information about their membership lists and political activities. The message is blunt and appalling. If you dare to speak out against us, we will make you the subject of a congressional inquiry.

There are many other examples of this imperial Congress at work. The chairman of this subcommittee has accused the Administrator of the Environmental Protection Agency of criminal conduct for speaking out against Republican efforts to gut our environmental laws.

The House majority leader has sent a letter to large U.S. corporations to protest their contributions to "liberal advocacy groups," and the House majority whip and the chairman of the National Republican Congressional Committee have threatened groups that gave to Democratic candidates in 1994.

A single goal unites these seemingly disparate actions. The new majority wants to create an imperial Congress that intimidates those who disagree into silence and that railroads major policy changes into law without hearings. This is, Mr. Chairman, an abuse of power, and it is dangerous.

As a member of the minority party, we have some rights that cannot be taken away. One of these rights is to call for an additional day of hearings. Currently, there's not even a pretence of even-handedness in these hearings on political advocacy.

Huge corporations receive millions in Federal grants, but these corporations—which, incidentally, make generous campaign contributions to the Republican party—aren't affected by this gag rule, despite the chairman's statement, which I found surprising, because the bill singles out nonprofit corporations.

Nor is their use of Federal grants being investigated by this subcommittee, and I refer people to the chart to the right. In other words, General Electric, which received over $6 million in Federal grants in 1994, is allowed to lobby for rollbacks in Federal environmental laws, but the Sierra Club, which received only $5,000 in Federal grants, would be prohibited from opposing these efforts.

Lockheed, which received over $45 million in Federal grants in 1994, is exempt from congressional scrutiny, but the Alliance for Justice, which received no grants, is intimidated and harassed by this subcommittee.

Mr. Chairman, I think we ought to have another day of hearings to hear from these corporations that are listed on that chart to testify before us. We will ask them to respond to the same questions being sent to the nonprofit groups.

Speaking for myself, I believe that the gag rule is unwise. These hearings are being conducted for coercive purposes. However, if the subcommittee is going to proceed with these hearings, we ought to be ensured that they are conducted in an even-handed manner and that investigations investigate the activities of all Federal grantees.

Mr. Chairman, I say all of this with a great deal of regret, and I certainly say it with concern, because I think that there is now a precedent that hasn't been seen in this country since the 1950's, when we saw people questioned about their loyalty and intimidated about their stands for America. I will participate in these hearings. I appreciate this chance to make this opening statement, and I regret to have to make such a hard opening statement, but I think it has been justified.

Mr. McINTOSH. Thank you, Mr. Waxman. Our next opening statement will be Mr. Tate.

Mr. Tate, if you would yield me 15 seconds, I would like to make one observation.

Mr. TATE. Sure.

Mr. McINTOSH. It's somewhat remarkable that today, in our hearing, we have six witnesses who are here before us. Four of them tell us they are opposed to this legislation. At each of the previous hearings, we've had people who have told us they are opposed to the legislation. We are, in fact, keeping a very open forum for the discussion of these ideas.

It strikes me that when people don't have an alternative to address a problem, they complain about process, rather than seriously coming forward with a legislative proposal. But we are going to go forward with legislation to address this problem on behalf of the taxpayers.

Thank you, Mr. Tate.

STATEMENT OF HON. RANDY TATE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. TATE. Thank you, Mr. Chairman, and I appreciate your efforts on this. By the way, if I'm not mistaken, this is the fourth hearing that we've had on this particular issue to date.

A couple of things. When I was home—I told this story, actually, when I was on the House floor when we had the debate on this particular issue—I was talking to a gentleman named Chris.

He had heard me on the radio, talking about this issue, and he said, "Randy, let me see if I got this right. I work hard, and I own a small business, and I send my money to the Federal Government. Then the Federal Government, or some bureaucrat, grants the money out to some organization that turns around and lobbies for things I don't even believe in, with my money. Now I understand what you mean by welfare for lobbyists."

I heard the phrase, "imperial." What could be more imperial of a Congress than to take the hard-working people's money in my district and spend it for causes they don't even believe in. Even if they believed in it, it would be wrong, because you shouldn't use taxpayers' money to subsidize causes.

My daughter, Madeleine, in her lifetime, will have to spend $187,150 just in taxes, just to the Federal Government, just to pay the interest on the national debt, if we don't balance the budget. We're serious about balancing the budget, and I think it's outrageous that we would be spending money to subsidize these sort of things.

I've heard a lot of talk about free speech. To me there's nothing more dangerous than taking the money of the hard-working taxpayers and individuals in the 9th District of Washington and sending it back to Washington, DC, to give it out to some organization that turns around and lobbies for different causes. To me there's nothing more dangerous than that.

And a gag rule—hey, do it on your own dime if you want to lobby. Do it on your own time, not on my dime, not on a taxpayer's dime, not on the people of my district's dime. Intimidate—nothing could be more intimidating to me than some tax collector taking my money, giving it to the Federal Government so they can give it to some other organization. Give me a break. Intimidate—we're trying to empower people to spend their own money.

We don't need these organizations that go out and lobby, engage in partisan political activities for the Republicans or for the Democrats, for Newt Gingrich or for Dick Gephardt. To me it doesn't matter. It's wrong. You shouldn't use the taxpayers' money in this capacity.

The people back in my district can understand it, that we should be spending money this way, and it's time that we changed this House. This is serious lobbying reform, and I commend the chairman for having the guts to take on the special interests.

Mr. MCINTOSH. Thank you very much, Mr. Tate. Our next member with an opening statement is Mr. Spratt.

STATEMENT OF HON JOHN M. SPRATT, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. SPRATT. Mr. Chairman, the first amendment is not just the first numerically, it's the first in order of importance. Indeed, if we rank the kinds of free speech, I think the right to petition our Government for redress of grievances would probably rank at the very top. It's the seed of this institution in which we serve.

The commoners and burghers and knights of the realm used to gather in the square at Westminster and petition the curia regis for redress of grievances in England, and from that sprang the Parliament, which is our mother institution. It is that ancient and fundamental right that we tread and trample upon today.

Now, I've served here 13 years, and I don't sit here as any purist on the Constitution. I have participated and voted for things before where we were skirting the Constitution.

There have been occasions when we've treaded upon what were likely constitutional violations with insouciance, saying, in effect, "Let the courts work it out. We're going to make this statement," but this is one of the most emphatic and wholesale assaults upon the first amendment that I've witnessed in the 13 years that I have been in the Congress.

Indeed, as I read this statute last night—this bill, thank God, this bill, not this statue—last night, it occurred to me as I concluded that the only worthy purpose it would serve is to submit it for a law school examination to first-year students in constitutional rights to see how many constitutional flaws, how many *Sherber* v. *Verner* and whatever other precedents you could find are violated by the legislation before us.

Ill-conceived, sloppily prepared, overbroad, and it addresses a problem which is a nonproblem. You're striking a straw man today. You say, Mr. Chairman, that your constituents in Muncie are outraged.

Well, tell them that nobody is spending, legally, their grant money on lobbying, that, in fact, OMB Circular A–122, issued in 1984, 31 U.S.C. Section 1352, passed in 1989, explicitly prohibits it, and it is a serious violation of the law, subject to substantial penalties if anyone is caught violating that. That's the answer to your constituents.

Indeed, I don't know about your constituents, but mine don't come to me with the perception that the YMCA and the Red Cross and the Natural Resources Defense Council or the Environmental Defense Fund or the Alliance for Justice are the ones who have undue influence in this institution. You're picking on the wrong lobby.

Mr. MCINTOSH. They may be when they find out.

Mr. SPRATT. Well, you're talking about the perception of your constituents. In 13 years, I've never had a one of them finger these, but they do suspect that maybe the NRA or the bankers or the big defense firms, that they do have undue influence, but not these organizations, these grassroot lobbying organizations that are a fundamental part of America.

I'm glad we're having this hearing. I think you've got the cart way before the horse, passing this legislation without ever giving it any scrutiny at all, and I'm glad today that, even if it does come

in a skewed order, that we're finally taking up an analysis of this bill by some of the organizations whom it will affect.

Mr. MCINTOSH. Thank you, Mr. Spratt. On our side, Mr. McHugh is here. Do you have an opening statement?

Mr. MCHUGH. In the interest of time, I will not make an opening statement, Mr. Chairman, other than to say I appreciate your continued leadership on this issue, and I'm looking forward to today's testimony.

Mr. MCINTOSH. Let me, if I may, ask you to lend me 15 seconds to interject.

Mr. MCHUGH. I yield to the chairman, 30 seconds.

Mr. MCINTOSH. Just so everyone knows the history of the earlier hearings, we did hear testimony from several law professors, two of whom, from the University of Virginia, having read the bill, assured us that it did meet first amendment muster.

I was very struck by Mr. Spratt's very eloquent analysis of the historical antecedents of the right to petition the Government, and I agree, that is a dear and important liberty. But I don't think the couriers who went to the King of England, demanding their right to petition the Government, also demanded that the King tell his exchequer to pay for their ability to do that, and that's the key issue that we're at today.

For another opening statement, let me turn now to Mr. Condit.

Mr. CONDIT. Mr. Chairman, because of the time, and we want to get through here, I won't make an opening statement. I just simply would like to identify myself with Mr. Peterson's remarks and maybe take just a minute and ask you a direct question.

We see this chart up here. I thought I heard you earlier say that these folks on this chart—Lockheed, Xerox, the people down the list—were covered under the legislation. Can you give me a direct answer? Are they or are they not covered under the legislation?

Mr. MCINTOSH. Would the gentleman yield?

Mr. CONDIT. Yes.

Mr. MCINTOSH. They are covered if they receive a Federal grant, which usually comes in the form of a grant to conduct research, even though they are a for-profit institution. They are not covered if they receive a Federal contract.

And, so that people know the distinction, I believe most of those entities there are on the list because they receive research grants and would, therefore, be covered. We can look in the data base that we have of Federal grants and confirm that and put it into the record.

Mr. CONDIT. Well, should we make some distinction, and should we correct that if that is the case, in your opinion?

Mr. MCINTOSH. I do think we've gone a long way toward covering for-profit corporations by including them in this bill as a grant recipient.

Mrs. Schroeder had an amendment to the Defense appropriations bill that would have also applied it to defense contractors. There was an effort to reach an agreement to accept that amendment by voice vote, which I would have approved of. That did not end up happening. There was a recorded vote, and it was defeated.

The point that we have is really one of taking on the world. We've taken on about 40 billion dollars' worth of Federal grants

that are given out. I am willing to continue to look at the problem if contracts create the same type of problem. They do have different regulations, currently, than grantees, but I'm willing to take that up. I just don't want to bog down this legislation with taking on everyone at once. We've got enough people who are mad at us.

Mr. CONDIT. Well, I understand that, and I'm not asking you this to put you on the spot. I actually was trying to get a clarification of this, because, as I look at this, Mr. Chairman, this appears to me to be outrageous, if we're allowing this to happen and we're cutting off everyone else.

I support in concept what it is you're trying to achieve, but I think we need to deal with this, as well. I think Mrs. Collins is right. It's difficult for us to deal with some of these other groups and not deal with the defense contractors and people like that.

I didn't mean to make an opening statement. I was trying to be brief so we could more to the witnesses. I apologize.

Mr. TATE. Would the chairman yield?

Mr. CONDIT. Yes, I'll yield to the gentleman.

Mr. TATE. I'm sorry. The gentleman, I know, brings an open mind and a fine mind to this debate, and I appreciate his question. I think, just so the gentleman knows, it's quite clear that when any entity—for-profit, nonprofit—any entity is acting in their capacity as a Federal grantee, they're covered by this piece of legislation. I think that's responsive to the gentleman's question.

Mr. WAXMAN. Would the gentleman yield to me?

Mr. CONDIT. Yes, I'll yield to Mr. Waxman.

Mr. WAXMAN. I just want to make a point that there's a 5-percent threshold, which means if you're a small operation, you exceed that 5 percent. If you're a $20 billion corporation, you can spend $1 billion to lobby, and this would never apply to that institution. So it is equivalent to saying the rich have the same rights to sleep in the streets. It doesn't really hold to say that they're treated the same.zzzzzz

Mr. CONDIT. Well, reclaiming my time, Mr. Chairman, I will take your commitment that we will continue to work on this. This needs to be dealt with. Once again, I apologize. I didn't mean to delay this, and I appreciate your tolerance and your answer to the question.

Mr. MCINTOSH. If the gentleman would yield for 1 quick second?

Mr. CONDIT. Yes.

Mr. MCINTOSH. And don't apologize, because I think it's a useful point. The staff points out to me, if we are reading the chart correctly, that all of those institutions receive Federal grants and not contracts, and, in that case, with the exception of the State universities and their affiliated organizations, they would all be covered by our bill.

Mrs. COLLINS. Would the gentleman yield?

Mr. CONDIT. Yes, I'll yield to Mrs. Collins.

Mrs. COLLINS. Thank you. I don't want to leave the thought out there that, when the Schroeder amendment came up on the Defense bill, that the chairman, seemingly, was in favor of it, because the record shows that he voted against it. I thank the gentleman for yielding.

Mr. CONDIT. Reclaiming my time, Mr. Chairman, I'll yield back to you.

Mr. MCINTOSH. The gentlelady is correct. I did vote against it. I mentioned I was in favor of an unrecorded vote to allow it to go on by voice vote. So that's the truth. We all know how that happens in this institution.

Let me turn, now, to any other members on our side of the panel who would like to make a statement. With us today is also Mr. Istook, who is a cosponsor, and Mr. Skaggs is joining on that. No opening statement? At this point, Ms. Slaughter.

STATEMENT OF HON. LOUISE McINTOSH SLAUGHTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. SLAUGHTER. Thank you, Mr. Chairman. I'm somewhat perplexed as to why we're holding this hearing at all today, because this bill has already gone through the House, except that I know that you are extraordinarily fond of it. I don't mean that to be sarcastic. I understand this is one of your favorites.

But frankly, gentlemen, you're flogging a dead horse, and I want to associate myself with the remarks of Mr. Spratt. No one could be more eloquent than he has been on what the first amendment to the U.S. Constitution is all about. But let me tell you why you're flogging a dead horse. These things have all been taken care of.

Now, you've mentioned already that 90 percent of all the Federal grants go to State and local governments, and they've only got one prohibition on them, only one. They can't charge the dues or membership of organizations that have lobbying as a substantial organizational purpose. That's all they've got. That's it. Now, for higher education institutions, they can go ahead and pay dues any time they want to and do anything that they please.

But when we come down to the nonprofits, what are they restricted from doing? Communications with public and direct communications with legislators or staff that attempt to influence the introduction, enactment, modification, or defeat of new or pending legislation in Congress or in State legislatures. Only the nonprofits are prohibited from both Federal and State, I want to add, as well.

They're also prohibited from legislative liaison activities, including attending legislative hearings, gathering information on legislation, analyzing effects of legislation where they support, lobby, or ongoing preparation for it.

They may not electioneer, directly or indirectly. It covers both attempting to influence a Federal, State, or local election, referendum initiative, or similar procedure in establishing, supporting, or administering a political campaign, party, political action committee, or other organization, attempts to influence the outcomes of elections. What more do you want from them?

I mean they've been restricted six ways to Sunday as it is, and, frankly, nobody has said anything here today about the questionnaire that you've asked these people to fill out. I can't imagine what would happen, Mr. Chairman, that you would go home and tell your constituents about what the Boy Scouts or the Y are taking away from them.

But do they know that the city of Indianapolis is getting billions of dollars? The University of Indiana, Ball State, all these universities? And there's no restriction on them. As a matter of fact, one of the points I want to make here is that, in the brief time I've been in Congress, the only time we've had major scandals on what happened with Federal money was with military contractors and universities. Remember that?

I have never, in the time that I've been here, as Mr. Spratt said, nor has any constituent of mine ever said to me, "You have simply got to do something about those Girl Scouts. Their influence on Congress is pernicious, and they've got to be stamped out."

Like Alice in Wonderland, I can believe six impossible things before breakfast on occasion, but this legislation has given me no ends of trouble, because I was sworn as a Member of Congress, and I raised my hand to uphold and defend the Constitution.

And this kind of an assault on it, although I voted against it, and I will vote against it again—I assume it's coming back, since we're holding hearings on it another time—I can't help but think about the days of the McCarthy hearings, when people were asked to list their associates and who they talked to and what their status was, and, gentlemen, that's the questionnaire that you've asked these nonprofits to give you. It is an invasion of every kind of protection that the Bill of Rights gives us as citizens.

I don't care how many times you say you're going to look at Martin Marietta, I know you're not going to, because, like everybody else in here, I've read your statement in the paper. I know who you're after. You're after the people who lobbied against what you wanted to do here.

It has been spelled out by more than one of your members that you want to go after the people who, one, didn't approve of your budget or who have a different political philosophy than you have.

Well, this Capitol, in its 200 years, has withstood a lot of people who came here with a political philosophy that they wanted everybody else to live under, and that pendulum has swung back and forth, and it will again.

But it is the most dangerous thing that I think that I've seen in the time that I have been here, that you will try to restrict the rights of the citizens of the United States to address their Government and, particularly, to bring this up when you know—and you do know—that they've been restricted considerably already.

As Mr. Spratt said, as far as I can tell, because no complaints have ever been raised again, they've abided by those restrictions. I apologize to you for putting you through this.

Mr. McINTOSH. Thank you very much, Ms. Slaughter. Let me say that if your statement is that the Girl Scouts should not be covered and that Martin Marietta should be.

Ms. SLAUGHTER. That's not my statement, sir.

Mr. McINTOSH. I think we're in agreement on that, and that's what our bill proposes.

Ms. SLAUGHTER. I'm telling you that the Girl Scouts are covered.

Mr. McINTOSH. Please read the legislation, because they're not.

Ms. SLAUGHTER. They are. Maybe you ought to read it, Mr. Chairman. They are.

Mr. McINTOSH. Believe me, I have.

Mrs. SLAUGHTER. They are covered. They may not use their Federal money to do any of the things I read off here. That's what you want, isn't it? It has already happened, Mr. McIntosh. When you got here, the Congress had taken care of that.

Mr. MCINTOSH. I don't believe the Girl Scouts—Ms. Slaughter.

Mr. WAXMAN. Point of order, Mr. Chairman. Each member should get 5 minutes and not have to be rebutted by the chair. We've got to let each one say his piece and, then, let's get on with the hearing.

Mr. MCINTOSH. We're going to move now to Mrs. Meek. Do you have an opening statement?

Mrs. MEEK. I do have, but I must go and vote, because that's why they sent me here. I will do my opening statement when I return.

Mr. MCINTOSH. Yes, we will do that.

Mrs. MEEK. I must say something on this.

Mr. MCINTOSH. Mrs. Meek, we'll do that. Let's stand in recess until 3:30.

Mrs. MEEK. Thank you, sir.

[Recess.]

Mr. MCINTOSH. Let me turn now to Mrs. Meek for her opening statement.

Mrs. MEEK. Thank you, Mr. Chairman, and I ask unanimous consent that my entire statement be included in the record.

Mr. MCINTOSH. Seeing no objection, it shall be done.

STATEMENT OF HON. CARRIE MEEK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mrs. MEEK. Thank you, Mr. Chairman. I would like to make two brief points. First, you are quoted, Mr. Chairman, in yesterday's New York Times, that this is the first in a series of hearings in which the witnesses will be groups who have lobbied against the Republican efforts to balance the budget.

If this is true, the statement that was made in the paper, I think it's outrageous that anyone, including yourself, would attempt to use the power of a congressional committee to chill the first amendment rights of those groups who may oppose your ideology.

I can think of some of the many, many small groups that you perhaps have not even envisioned that this legislation might impact, and I'm sure some of those groups have not even been sent a questionnaire or have been asked their opinion. I cannot imagine what would happen if this particular proposal were to pass, and someone from the Homeless Trust came up to lobby me, and I couldn't talk to them, when I could talk to anyone from one of the large corporations you see there.

I think you must understand that each of us is elected to represent people, not necessarily large corporations, but groups of people. I'm afraid, as some of the other members have been, that this may be a return to McCarthyism. I came along during that time, Mr. Chairman, and I know some of the scare tactics that were used during that time, and I do have a good memory. I wouldn't like to see that happen again.

Mr. MCINTOSH. Mrs. Meek, I appreciate your memory. Would you yield for a real quick comment on that?

Mrs. MEEK. Yes, yes.

Mr. MCINTOSH. I have the New York Times article you referred to in front of me. The article then goes on to point out, "If there are groups out there speaking out, I think the public ought to know if they're benefiting from their positions."

Our goal, really, is to find out what the taxpayer dollar is being used for and to protect the public's interest to know what's happening in this. Really, in terms of people in their own private capacities and not receiving Federal assistance or indirect subsidies, I agree with you totally. I think we should respect their privacy right, but when you start receiving that money from the taxpayer, I think the public does have a right to know how it's being spent and what it's being spent on.

Mrs. MEEK. I couldn't agree with you more, but being one that's always opposed to discrimination, Mr. Chairman, I would hate to see you be indiscriminate about the groups whom you put this particular limitation on. If it's on just the regular nonprofit groups that don't have a high profile and not against the large groups, particularly the large corporate groups, including the military establishment, the large universities.

We know where the money's going. I served on appropriations for 2 years, and you know that old saying about a billion here and a billion there, soon enough you're talking about real money. Well, these people aren't talking about real money. They aren't getting real money.

But, for example, last year, the AMA received $655,000 in six Federal grants. These grants include sponsoring a conference on family violence, giving demonstrations to prevent injuries, and setting up an education program to protect people from the hazards of environmental tobacco smoke.

I support the American Medical Association getting these Federal grants, and I also support the right of the AMA to lobby both the Federal Government and State and local governments on such topics as health care legislation. What would happen if we couldn't get information from these groups? They pass on to us very pertinent information regarding health care legislation. I think we would be derelict if we could not hear from these groups.

As another example, the International Business Machines Corp. says that it received about $92 million in Federal grants last year. I support IBM getting Federal grants to do research. That is important to the Nation's future.

I also support the right of IBM to lobby both the Federal Government and State and local governments. I've been there, Mr. Chairman, both on the State level and now I'm here on the Federal level. We need this kind of input.

I think, even though your intent may be good—sometimes I doubt it, but you're kind of cute, you know, so I can kind of take some of the things you say, even though I'm against a lot of them. But your cuteness helps a lot.

Mr. MCINTOSH. Thank you, Mrs. Meek.

Mrs. MEEK. But anyway, what I'm trying to say is that some of the things, I do think the impact of your bill is going to be more far-reaching than you ever thought it would be. I think you're going to perhaps prohibit or perhaps sort of keep people who really would

like to speak to us, who really aren't in the business of political advocacy, from speaking out and coming and trying to lobby us and tell us what things that they're doing.

I know you're not going to investigate IBM, and you're not going to investigate the American Medical Association. There isn't that much money in the world, Mr. Chairman, and you already have a bill that's working that prohibits this. It's the law of the land to prohibit this.

Second, I would like to address the constitutional issue, which I have heard so many of the other members talk about, but at the August 2 subcommittee hearing on the Istook-McIntosh amendment, the House considered an amendment by Representative Schroeder to the Defense appropriations bill.

Her amendment would have extended the Istook provision to defense contractors, but you opposed it, and you've heard that from one other member today. But there is a constitutional issue here. Believing strongly in the Constitution and having lived behind its protection, I certainly would like to see this apply to everyone.

I ask unanimous consent to place in the record letters from Elizabeth Dole—I respect her very much—from the American Red Cross. I'm sure you have that letter, in which Mrs. Dole, and also Monsignor Schnurr, general secretary of the U.S. Catholic Conference, explaining why they are against the Istook provision.

Now, Mr. Chairman, you're a freshman. I know you don't want to run up against these two organizations. You don't want to run up against Elizabeth Dole, and I know you're not going to run up against the Catholic Conference. I know better than that.

Mr. MCINTOSH. Seeing no objection, we'll definitely put both of those letters in the record.

Mrs. MEEK. Good. I guess the point I'm trying to make, Mr. Chairman, whether deliberately or not, your legislation carries the wrong message. The message it carries is that we don't want political advocacy from people who are small in content. They are nonprofits. They don't get the big money, so we'll just not put this particular legislation on the large corporations or the people who don't use their money to lobby the Federal Government.

I guess my point, Mr. Chairman, is that there are those who have reasons to lobby us, and we also need input from those small organizations. We need input from the Red Cross. We need input from the Boy Scouts, the Girl Scouts, and all of them. And even though you don't think it's going to impact them, it will discourage them, because they don't know, they really don't know.

You would be surprised, when you draw this line in the sand, many times the public will not understand, no matter how well-intentioned you are. And I do hope you don't mean to gag anyone, but the real feeling here is that some of these groups will be gagged, and I think we should look at this legislation more closely.

Remember, you and I just got here. We don't know everything. So you need to just kind of open up and give us more time to look at this piece of legislation, knowing that your intents are noble and that you don't want to gag people. I think you should consider that, Mr. Chairman.

Mr. MCINTOSH. Well, Mrs. Meek, I appreciate that. Would you yield for a second?

Mrs. MEEK. Yes.

Mr. MCINTOSH. I appreciate your statement right there. I think that there's a lot that we could have in common about this. We may not agree with everything on the bill, but it certainly wasn't our intention to gag anyone or prevent the little guy, if you will, the charity that's helping in the community to run a community center or help the elderly or the poor.

We don't want to stop them from speaking up when they see a problem. It was when a group became primarily a lobbying group that I sense there was a problem and almost a conflict of interest in some ways. And so I hope, with the sentiment of your opening statement, that we can work together on this. We may not end up agreeing, but I think we're both on the same track, and I would love to be able to talk with you more about it.

Mrs. MEEK. I would, too, Mr. Chairman. This is scary legislation.

[The prepared statement of Hon. Carrie P. Meek follows:]

PREPARED STATEMENT OF HON. CARRIE P. MEEK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, I ask unanimous consent that my entire statement be included in the record.

Let me make two brief points.

First, Mr. Chairman, you are quoted in yesterday's New York Times that this is the first in a series of hearings in which the witnesses will be groups who have lobbied against the Republican efforts to balance the budget.

I think it is outrageous that you would attempt to use the power of a Congressional committee to chill the First Amendment rights of those groups who oppose your idealogy. Is this a return to the tactics used in the 1950's by Senator McCarthy? What about the groups who get Federal grants and appear to support your position on various issues?

For example, last year the American Medical Association received $655,000 in six Federal grants. These grants include sponsoring a conference on family violence, giving demonstrations to prevent injuries, and setting up an education program to protect people from the hazards of environmental tobacco smoke. I support the AMA's getting these Federal grants, and I also support the right of the AMA to lobby both the Federal government and State and local governments on such topics as health care legislation.

As another example, International Business Machines Corporation says that it received about $92 million in Federal grants last year. I support IBM's getting Federal grants to do research that is important to the nation's future, and I also support the right of IBM to lobby both the Federal government and state and local governments.

But I wonder whether you plan to investigate political advocacy by the AMA and IBM.

Second, I want to briefly address the constitutional issue that we considered at the August 2 subcommittee hearing on the Istook-McIntosh provision. On September 7 the House considered an amendment by Representative Schroeder to the defense appropriations bill. Her amendment would have extended the Istook-McIntosh provision to defense contractors. During the floor debate Chairman Livingston opposed the amendment on the ground that it "totally flies in the face of any constitutional principles that I know of" to tell a defense contractor that the contractor cannot use its own funds to lobby the Federal government. I wonder whether you, Mr. Chairman, agree with Chairman Livingston on this constitutional issue for defense contractors and, if you do, why the constitutional issue should be decided differently for groups such as the American Red Cross and the United States Catholic Conference.

As you know, these two organizations—along with many others—are opposed to the Istook provision. I ask unanimous consent to place in the record letters from Elizabeth Dole, President of the American Red Cross, and Revered Monsignor Dennis Schnurr, General Secretary of the United States Catholic Conference, explaining why they oppose the Istook provision.

I note that Monsignor Schnurr points out in his letter that the Istook amendment could subject the Catholic Conference to harassing lawsuits by pro-abortion groups on the ground the Conference had violated the Istook amendment.

I hope the witnesses will address this important issue of harassment.

AMERICAN RED CROSS,
Washington, DC, Sept. 11, 1995.

Hon. STENY H. HOYER,
House of Representatives,
1705 Longworth House Office Building,
Washington, DC.

DEAR STENY: The American Red Cross is concerned that language contained in the House version of the Labor, HHS, and Education Appropriations Bill (H.R. 2127) would have a detrimental impact on our ability to meet our Congressional Charter obligations to carry on a system of national disaster relief and to provide emergency communication between members of the military and their families.

Under the so-called "Istook Amendment," the definition of political advocacy has been expanded to include "attempting to influence . . . agency action." This expanded definition of advocacy includes contact with state and local governments, as well as federal agencies. We understand that the Amendment was not directed at the American Red Cross. Nevertheless, its broad language would fundamentally and adversely affect our ability to work with government agencies at all levels.

Although the Red Cross relies primarily on charitable contributions and hundreds of thousands of volunteers nationwide to provide disaster relief, we are an integral part of the national disaster response mechanism. We are not only responsible for providing mass care whenever the Federal Disaster Response Plan is invoked, but we also provide services to victims of over 60,000 smaller disasters every year in communities across America. Under the Istook Amendment, any Red Cross official contacting a state or local emergency management agency to arrange for shelter facilities, cots, blankets, generators, or other disaster relief supplies could be defined as a lobbyist. Even our work with other Federal Response Plan agencies could be construed as lobbying.

In order to meet our Charter obligations to members of the military and their families, Red Cross personnel are in contact on a daily basis with Department of Defense officials in Washington, as well as local commanders on bases where Red Cross provides services here and abroad. Red Cross officials must arrange for use of office space, equipment and communications technology to make the provision of our services possible. The Istook Amendment would define Red Cross staff acting in that capacity as lobbyists, and impose unrealistic limitations and burdensome reporting requirements.

Please do all that you can to ensure that the Red Cross and other charitable organizations which face similar circumstances are exempt from this provision. Current law prohibiting the use of federal grant money for lobbying purposes is both proper and adequate, and the American Red Cross complies with its comprehensive reporting and auditing requirements. To unduly restrict our ability to work with government representatives and agencies through the additional regulation envisioned by the Istook Amendment would not be in the best interests of the millions of people who rely on the American Red Cross when Help Can't Wait.

With warmest best wishes,

Sincerely,

ELIZABETH DOLE.

OFFICE OF THE GENERAL SECRETARY
OF THE U.S. CATHOLIC CONFERENCE,
Washington, DC, July 28, 1995.

DEAR REPRESENTATIVE: I write to share the major priorities of the U.S. Catholic Bishops Conference on the Labor/Health and Human Services Appropriations Bill coming to the House floor. For the U.S. Catholic bishops, the fundamental measure of any piece of legislation is to how it touches human life and human dignity and contributes to the common good. Applying this moral criterion, we urge you to (a) support measures which prohibit public mandating and funding of abortion, (b) eliminate proposals which deny federal grants to groups using their own private resources to join in public debate, (c) reject disproportionate cuts in programs which provide essential services for poor children and vulnerable families, and (d) oppose

any floor amendments that would further condition assistance under the bill on an individual's immigration status.

This bill contains four important pro-life provisions: (1) The Istook amendment, to allow states to follow their own state laws and constitutions when these require a stricter abortion funding policy than that of the Clinton Administration (See Attachment A); (2) The DeLay amendment to prevent government discrimination against doctors and hospitals that refuse to perform abortions (see Attachment B); (3) the Dickey Amendment to deny federal funds for destructive experiments on live human embryos (see Attachment C); and (4) the Livingston amendment redirecting Title X funds, previously earmarked to projects required to counsel and refer for abortions, to comprehensive health programs which better serve the needs of the poor (see Attachment D). Such funding limitations will be called "extremist" by abortion advocates, because that is how they describe any proposal that does not endorse their pro-abortion stance. But these are modest and overdue measures to get government out of the business of promoting and subsidizing abortion—in fact, two of them prevent federal coercion toward involvement in abortion. Please help defend these provisions from any effort to strike or weaken them.

The section in the bill relating to political advocacy by recipients of federal grants is objectionable for several reasons and should be stricken from the bill. First, because the section is overly broad and penalizes privately funded speech, our legal counsel has advised that there is a substantial likelihood that the section, if enacted, will be found unconstitutional under the First Amendment of the Constitution. Second, the "private attorney general" enforcement provision will expose countless numbers of federal grantees to potentially harassing litigation by individuals who disagree with their positions on public issues. Our Conference has firsthand experience with this sort of harassment when it was forced to endure ten years of very expensive litigation after pro-abortion groups and individuals brought suit, ultimately dismissed for a lack of standing, to have the Conference's tax exemption revoked because of its advocacy in defense of unborn children. New legislation is not necessary to prevent federal grant funds from being used for political advocacy, at least insofar as applied to organizations exempt under section 501(c)(3) of the Internal Revenue Code, because federal law and regulations already prohibit lobbying and election campaign activities with federal grant funds (see Attachment E).

We are aware of an amendment that Representative Frank Riggs may offer on the House floor that would place new restrictions on undocumented immigrants' access to services funded under this Act. We strongly oppose this amendment. Undocumented immigrants are already ineligible for virtually all programs funded in this bill. The few that such immigrants are eligible for are important services such as elementary-secondary education and child nutrition services—services that should not be provided or denied on the basis of an individual's immigration status. Adoption of the Riggs amendment would require all federal entities, as well as private, charitable entities, to conduct immigration checks before providing necessary services. Most such entities are ill-equipped to make complex determinations about immigrant status. We urge defeat of the Riggs amendment or any other such amendment that might be offered during floor consideration.

Finally, this legislation disproportionately cuts programs that help poor families, vulnerable children and the elderly such as Head Start, youth employment, help for dislocated workers, home energy assistance, and nutrition and other help for the elderly. Other cuts affect the NLRB, OSHA, and efforts to prevent striker replacement which could undermine worker rights and dignity. Major cuts in education—Title I grants and capital expenses for disadvantaged students, Title II development for teachers, Title IV safe and drug free schools, and Title VII bi-lingual education—would do serious harm, especially to disadvantaged students. We urge the House to "put children and families first" by supporting amendments to restore funding for these important human practices.

Sincerely,

REV. MSGR. DENNIS M. SCHNURR,
General Secretary.

Mr. MCINTOSH. Let me now turn to Mr. Gutknecht, who is, I think, the only other member who has come today who hasn't had a chance to have an opening statement. Would you like to make one now, before we vote, or afterwards, or pass so we can get to the witnesses?

STATEMENT OF HON. GIL GUTKNECHT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. GUTKNECHT. Mr. Chairman, I really didn't have any long opening statement, but I would like to just say that I agree with some of the comments that Mrs. Meek made.

"Facts are stubborn things." John Adams said that 200 years ago, "Facts are stubborn things." I know there has been a lot of hysteria about this. I think, from my perspective, we are doing exactly the right thing.

I think the American people need to know that there are organizations who lobby here in Washington, DC, who receive in excess of 95 percent of all of their funds from the Federal Government, and then they turn around and spend 99 percent of their effort lobbying for more money from the Federal Government.

I think that is unbelievable, and I think, when the facts come out about it and people have a chance to examine the evidence, I think virtually everyone will agree with this bill.

So that was my only opening statement, Mr. Chairman. I would yield back, and now we have to go vote.

Mr. MCINTOSH. Thank you very much, Mr. Gutknecht. Let's take a recess until after this vote, and then we'll turn to the first panel.

[Recess.]

Mr. MCINTOSH. The subcommittee is reconvened. Our first panel today will be two of our fellow colleagues, Representative Jim Longley of Maine and Representative David Skaggs of Colorado.

Welcome, both of you, and thank you for coming before us today to testify about your thoughts and concerns in this issue and other related subjects to the bill. I don't think we need any further introductory remarks. Mildred is telling me that we don't swear in our colleagues who are Members of Congress. We trust that you're truthful, although it is a policy to swear in the other witnesses.

Let me begin now by turning it over to my colleague from Maine, Jim Longley.

STATEMENT OF HON. JIM LONGLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. LONGLEY. Mr. Chairman, thank you very much. Before I begin, I just want to make absolutely sure, are there any more opening statements?

Mr. MCINTOSH. That's a dangerous question to ask. It's good to know there are none.

Mr. LONGLEY. Thank you, Mr. Chairman and members of the committee. I want to discuss my experience with one particular group that has been receiving Federal money and, I think, using it in an outrageous manner. This is the National Council of Senior Citizens.

I first became aware of the National Council about 2 or 3 weeks prior to last November's election, when they were part of a vicious assault against now-Senator Olympia Snowe of Maine in her campaign against former Representative Tom Andrews.

They got my attention at that time. Frankly, I didn't know very much about them. I just assumed it was a senior advocacy group from Washington. I was very surprised to learn, in the weeks fol-

lowing the election, that, in fact, they were the recipient of significant Federal funds.

At that point, I had an opportunity to see a copy of their tax return and was just outraged at the suggestion that they had filed a tax return which indicated that their total receipts from the Federal Government were approximately 95 or 96 percent of total receipts collected.

They again came to my attention about 2 weeks ago, when I became aware of an affiliate of the National Council, which had released a newsletter severely attacking me on my stands on fiscal and budget issues here in Washington, as well as issues pertaining to Medicare.

What I particularly took offense at was not the fact that I was being attacked, because I understand that goes with the territory, but the fact that this was a group that had never approached me or my office, had never asked for a meeting.

There had been no attempt whatsoever to present their views in any type of format until I came across this particular attack. Then I became aware of the fact that not only were they launching a pretty strong attack against me, but they were also orchestrating a demonstration, including picketing, outside my office.

Now, again, I have no problem with any group that wants to exercise its first amendment rights and demonstrate or object or picket outside of my office. Candidly, hardly a week goes by that somebody isn't objecting to something.

But when I discover that a group that's receiving the amount of money that they receive from the Federal Government is attempting to do that, and not only putting my office and my staff through the difficulties of dealing with a large group, but also all of the businesses and all of the people who frequent that area of the city of Portland, causing interruption, disturbances, involving the police department, et cetera, then, again, I became somewhat concerned.

I went back to try to recover some of the information that I had come across earlier. I managed to obtain a copy of their tax return. I want to just illustrate this for the benefit of the committee.

If you'll note—and I'm going to speak loudly, I hope this gets picked up and responded to. Now, this is a copy of their tax return for the year ending June 30, 1994. It is the return of an organization exempt from income tax, National Council of Senior Citizens, 1331 F Street, Northwest, here in Washington, DC.

Under the line that indicates statement of revenue and expenses, there are Government contributions in the form of grants, $72,910,930 out of a total budget of about $75,956,000. In effect, almost $73 million, almost 96 percent of their total revenues.

Now, the story gets a little bit more interesting. I had an opportunity to do some research on this group, and I came across a copy of an internal audit conducted by the organization.

With respect, Ms. Slaughter, to your comments, and Mr. Spratt, I want to point out that this is not my testimony as to the critical role that Federal grants play in their ability to function as an organization. This is a copy of page 6 of their own internal audit by their own auditor. I would be happy to make the complete record available to the committee, but I'll read the auditor's quote:

In closing, we, the auditors, feel that we would be remiss in our responsibilities if we did not make some points we believe are of considerable importance to the future viability and effectiveness of the National Council of Senior Citizens. We offer these thoughts as long-time members and supporters of the Council, whose only wish is for NCSC to flourish and grow.

And it goes on to say, with reference to the heavy reliance on Federal grants,

Absent such grants, the council would be unable to continue its current level of operations without seeking new revenue sources.

I'll end on this note. I also became aware through the FEC that the National Council contributed approximately $417,000 to Democratic candidates for Congress in the last two election cycles, not a single red cent to a Republican candidate.

But whether it's Republican or Democrat, it's irrelevant. A group that's this heavily dependent on Federal funds has no business whatsoever getting engaged in partisan political activity. I would make that statement with reference to any Democratic group or any Republican group. It's unconscionable that the taxpayers are subsidizing this organization and its partisan activities to the extent that they are.

I'll be happy to answer further questions as we move on with the hearing. Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Longley. I'm sure you would agree with me that it wouldn't matter whether it was liberal or conservative, Republican or Democrat, that these partisan activities were directed at.

Mr. LONGLEY. Absolutely.

Mr. MCINTOSH. Let me turn now to our second witness on this panel and ask Mr. Skaggs, who has made his views known here at this committee and on the floor, to please share with us further on your view on this bill.

STATEMENT OF HON. DAVID E. SKAGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. SKAGGS. Thank you very much, Mr. Chairman. I wanted to give you the opportunity of cutting me short, in that I was encouraged by the exchange that you had with Mrs. Meek just before we left for one of the earlier votes, in which you, I believe, stated that you wanted to work with her on perhaps arriving at some mutually acceptable solution here.

That suggests that it might be appropriate to drop the effort to include the present language in the Treasury Postal bill, and I'll make a deal with you. I won't take up any more of the committee's time if my understanding of your exchange with Mrs. Meek was correct.

Mr. MCINTOSH. No, I'm afraid it didn't quite go that far. I think we can find a lot of common ground, but we're still going to have it in the Treasury Postal bill.

Mr. SKAGGS. I was afraid of that. Mr. Chairman, I believe that when the State, as represented by the Congress of the United States, starts to police speech, constitutionally protected political expression, then we flirt dangerously with a police state.

And so I am here today to protest the conduct and the methods of this hearing. In opposing the legislation that you and Mr. Istook

and Mr. Ehrlich have drafted, I have made the point that I believe it would impose an intrusive regulatory scheme of political surveillance and suppression on free expression of political views in this country, the antithesis to the lifeblood of this democracy.

Through this hearing, I believe the new majority in this House is demonstrating its misuse of power to begin that political surveillance and suppression, even in advance of the enactment of this misguided legislation. This is a type of hearing that has not been seen around this place since the heyday of the House Committee on Un-American Activities in the late 40's and early 50's, coincidentally, the last time the Republican party was in control of the House.

This is not primarily a hearing looking for an elucidation of the fine points of the Istook amendment. It is the first salvo in trying to get at those fundamental values of free political expression.

Why do I say that? The questionnaire that was distributed by the committee staff to the witnesses this afternoon includes a raft of questions that, in my judgment, as that of some of the colleagues on the committee that have already spoken, runs smack into the restrictions of the Constitution of the United States on the proper activities of the Congress, questions such as, "in the past 5 years, has your organization engaged in political advocacy as defined in the attached legislation?"

By the way, as you know, Mr. Chairman, that legislation defines political advocacy as virtually any contact with any level of Government for any purpose having to do with influencing or attempting to influence public opinion on any policy matter.

Going on to quote further from the questionnaire, "If so, please provide a brief description of the type of political advocacy engaged in and a good faith estimate of the expenditures on each activity." Note that this has absolutely nothing to do with political activities by a group using Federal funds, but with its own funds. This is precisely the kind of inquiry that no Member of Congress should dare—should dare—subject free citizens of a free nation.

The questionnaire goes on, "Does your organization allocate, disburse, or contribute any monetary or in-kind support to any individual entity or organization whose expenditures for political advocacy in any of the past 5 years exceed 15 percent of its total expenditures for that year?"

Herein lies perhaps one of the most pernicious and, presumably, intended aspects of this foolishness, because you're not only attempting to curtail the free exercise of speech by individuals with their own resources, but to set up a secondary boycott against the derivative use of other organizations or persons with whom anyone receiving Federal funds or thing of value may choose to do business. This directly violates the fundamental principles on which our American democracy is based.

And lest we have any doubt about what's really going on here, the fact that your committee staff has acknowledged producing a document clearly intended to mislead the press and the public about origins and content, this is exactly the sort of innuendo, unsigned attack piece that we should find despicable in the context of the debate in the Congress of the United States.

It flies directly in the face of the pronouncements of the Speaker of the House of Representatives on the floor last week, making it clear that we do not want unsigned, unacknowledged flyers floating around, especially if you are concerned about the misuse of taxpayer money, Mr. Speaker, done with the resources of your committee.

Mr. MCINTOSH. Mr. Skaggs, let me take my own time to say that I think it would serve us all well if you had a chance to read the legislation.

Mr. SKAGGS. I have.

Mr. MCINTOSH. Well, maybe we read English differently, but where we make a clear statement that no one's first amendment rights will be abridged, that it doesn't apply to individuals, it seems to me that perhaps we don't understand the same language.

Mr. SKAGGS. Well, perhaps Groucho Marx wrote that line in the legislation.

Mr. MCINTOSH. I think what happens is, when people have nothing to offer to help solve this problem, they cry "foul" and scare people to say things that aren't indeed happening, and it's a shame that that takes place in the body politic, but I don't think we need to respond to things that patently aren't true.

Mr. SKAGGS. Did the committee staff prepare that document, Mr. Chairman?

Mr. MCINTOSH. Let me turn now to Representative Longley, and I have a question for him about the National Council of Senior Citizens. By the way, we will be having a hearing when we return from the October break in which we will invite them to testify and participate in this.

Ms. SLAUGHTER. Mr. Chairman. Mr. Chairman, if you would hear me for just a second. I'm concerned that my colleague, Mr. Skaggs, who said that the committee had produced that document unsigned—is that correct, Mr. Skaggs?

Mr. SKAGGS. That was the information that I received.

Mr. MCINTOSH. Ms. Slaughter.

Ms. SLAUGHTER. But you have implied, Mr. Chairman, that he told a lie.

Mr. MCINTOSH. Ms. Slaughter.

Ms. SLAUGHTER. Well, at least—all I want to know from you is did your committee prepare that document or not? That's easy enough to know.

Mr. MCINTOSH. Ms. Slaughter, let me finish with my time, and I'll gladly allow you to address that during your time to question witnesses.

Ms. SLAUGHTER. Well, I would be happy to do that, but it seems to me that you owe it to Mr. Skaggs, to whom you've just said that he lied.

Mr. MCINTOSH. No, I made a statement that there are a lot of misrepresentations about what our bill says. In this case, it's not true.

Ms. SLAUGHTER. We're not talking about your bill. We're talking about whatever that thing was.

Mr. MCINTOSH. Well, I'm talking about my bill. I understand you don't want to talk about my bill, because you don't want the people to know what it says.

Ms. SLAUGHTER. I don't mind to talk about your bill. I'm happy to talk about it.

Mr. MCINTOSH. Reclaiming my time. Mr. Longley.

Ms. SLAUGHTER. But what I—but, Mr. Chairman.

Mr. MCINTOSH. Reclaiming my time.

Ms. SLAUGHTER. Mr. Skaggs held up something that he said the committee had produced.

Mr. MCINTOSH. Ms. Slaughter, would you please wait? I don't interrupt you on your time.

Ms. SLAUGHTER. I know you don't, and I do appreciate that.

Mr. MCINTOSH. Then please let me finish with my time.

Ms. SLAUGHTER. Well, it would only take you a minute to say yes or no, the committee did it. Did the committee do it?

Mr. MCINTOSH. Please let me finish with my time, and I'll gladly address the issue when you're asking questions.

Mrs. SLAUGHTER. I can ask you a question, then?

Mr. MCINTOSH. You can ask the witness a question.

Ms. SLAUGHTER. Well, they don't know. Mr. Skaggs told us what he thought.

Mr. MCINTOSH. Ms. Slaughter, let me proceed with the hearing.

Ms. SLAUGHTER. And you said he was wrong.

Mr. MCINTOSH. And we'll be able to address that on your time. Mr. Longley.

Ms. SLAUGHTER. Well, I don't have any way to find that out.

Mr. MCINTOSH. In your experience in Maine with the National Council of Senior Citizens, when they were engaged in this political activity where they were taking out advertisements, did they disclose to people that they were a grant recipient that received 96 percent of their funds from the taxpayer?

Mr. LONGLEY. Not at all. Not at all. They pretended to be an advocacy group for senior citizens.

Mr. MCINTOSH. And so they didn't tell the public that they relied on the Federal Government for 96 percent of their funding?

Mr. LONGLEY. They made no suggestion whatsoever that they even received a nickel from the Federal Government.

Mr. MCINTOSH. When voters in your district find out that they had received that much money from the Federal Government and, in fact, benefit from a lot of the programs that they are complaining about being changed by this Congress, are they surprised by that? What's their reaction?

Mr. LONGLEY. I think the voters work awfully hard for their money, and they don't get too excited at the idea that any group is using taxpayer funds to orchestrate political campaigns.

Mr. MCINTOSH. Mr. Longley, are you familiar with the earlier testimony that we had before this committee from Profs. Lillian Bevire and John Harrison, who are noted constitutional scholars, about the first amendment aspects of this legislation?

Mr. LONGLEY. No.

Mr. MCINTOSH. Apparently, along with Tim Flanagan, who is a former head of the Office of Legal Counsel, the advisor to the President on constitutional issues, they all felt, after reading this bill, that it preserved first amendment rights because organizations could either not take Federal grant money and thereby have abso-

lutely no scrutiny or set up a separate organization which would be funded privately on that basis.

Now, we all take an oath to defend and uphold the Constitution of the United States, and I know you, as well as the rest of us, are concerned about these issues. Is that type of testimony from the experts in this area satisfactory to you about the constitutional issue?

Mr. LONGLEY. I think so. I want to elaborate on that. I have great respect for the first amendment, and I think that anyone has a right to express their political views. I do not, however, think that they have the right to expect the Federal taxpayer to pay for it, and that is exactly what's happening.

I'll contrast their behavior with the behavior of other groups that receive Federal funds in my district, including the Maine Developmental Disabilities Council. I have also worked with the Family Planning Association. Each of those groups has been extraordinarily circumspect in not putting itself into an advocacy position vis-a-vis partisan politics. In fact, as I was requesting information from them, they specifically wanted to know that I was requesting only information. They were very, very concerned that their activities.

Even as involved as they were in administering Federal grants and as concerned as they were in any possible changes in those grant formulas, they were still very professional and very circumspect in their relations with my office to insure that they were providing us with information in a neutral fashion and that they were not in any way seen as attempting to influence a partisan agenda.

Mr. MCINTOSH. Thank you, Mr. Longley. Let me ask Mr. Skaggs, are you troubled at all by the level of political advocacy by the National Council of Senior Citizens?

Mr. SKAGGS. I'm troubled by anyone that violates the existing Federal law that prohibits the use of Federal funds for lobbying the Federal Government, and I would be troubled by any organization that otherwise violates the requirements in existing law covering the political activities and lobbying activities of organizations that qualify under section 501(c) of the Internal Revenue Code.

I do not have any independent evidence of the violations by the National Council, and would want to see exactly what was going on here. My impression is that the preponderance of the grant money that has been referenced here is a passthrough by that council under various legal provisions enacted by this Congress to accomplish various charitable purposes that the Congress thought was better conducted by a nonprofit organization than by a Government agency.

Mr. LONGLEY. Could I add to that answer?

Mr. MCINTOSH. Certainly.

Mr. LONGLEY. I find it striking that the National Council insists that it's in compliance with the law, and that leads me to believe that either—and I want to frame my answer in the context of not my opinion, but their own internal auditor's opinion that effectively the organization would cease to exist without Federal funds. And so that tells me that either the law is being sloppily administered, or, in fact, the law hasn't been written stringently enough to prevent the partisan political activity it seeks to outlaw.

Mr. MCINTOSH. And it strikes me that, in a case where an entity receives 96 percent of its funds from the Federal Government, it is very much an entity that is like an agency of the Government, and yet they are empowered to go out and raise funds to set up a political action committee.

Mr. LONGLEY. I think this is what's a very important issue. I certainly believe that, in many cases, a nonprofit organization can more effectively administer Federal programs than the Federal Government itself. They are freer; they are more autonomous. In many cases, they've got stronger and closer connections to the community.

That's one reason why I think that perhaps the weakness, in terms of supervision, is one that there is a need for legislation to address so that we don't have any risk, as these groups operate independently, that they get too actively engaged in partisan politics.

Again, coming back to the point on the first amendment, I think someone needs to make a choice, do they want to be a political partisan, or do they want to administer a Federal grant. And I don't think you can do both, and certainly not do both using the resources of the Federal Government.

Mr. MCINTOSH. Thank you both. I have no further questions at this time.

Let me turn now to Mr. Skaggs, if you have any questions for this panel. I'm sorry. Mr. Spratt. Pardon me.

Mr. SPRATT. It's all right. Mr. Chairman, with respect to Mr. Skaggs, you asked if he had read the bill, and I would like to offer a copy of his excellent summary of this bill for the record. It's called, "The Istook Amendment, A Fact Sheet," dated August 31, 1995.

Mr. MCINTOSH. Seeing no objection, we will include that in the record. I will request that the staff review that and see if we have any comments on it.

Mr. SPRATT. Thank you very much.

[The material referred to can be found in the subcommittee files.]

Mr. SPRATT. Mr. Longley, the program under which this organization, the National Council of Senior Citizens, operates as a grantee is known as the Senior Community Service Program.

Mr. LONGLEY. I believe that's one of the programs they administer, maybe the bulk of the money.

Mr. SPRATT. That's my understanding. You may be right; there may be others. I think it's the principal program. They are a grantee of that, along with about nine other grantees of the Department of Labor. It's Title V of the Older Americans Act, adopted 30 years ago. It has enjoyed bipartisan support.

Right now, I think they have, to their credit, the placement of about 67,000 older Americans, over 55, many of whom have recently received a pink slip, they have been displaced, and these folks go out and help them find a job, usually a community service job. Seventy percent are women; 40 percent are minorities; all of them are low-income.

The Labor Department has found their services useful.

Mr. LONGLEY. You mean the National Council or the nine groups?

Mr. SPRATT. This National Council, as a grantee.

Mr. LONGLEY. OK.

Mr. SPRATT. They have found the services of private organizations like this so useful, for principles which I think you would agree upon, the Government finds that a private sector organization, publicly supported, can do it better than the Government itself, that most of this program is, in effect, carried out through these private grantees.

What they do is render a service in return for a fee from the Federal Government.

Mr. LONGLEY. I'm familiar with the program. In fact, I visited with one of them in the State of Maine.

Mr. SPRATT. Now, this is contracting for a human resources services, but how does that differ from contracting with Lockheed-Martin Marietta for engineering services? How do we distinguish between the two? In both cases, the Federal Government is contracting with a grantee.

Mr. LONGLEY. I'm not sure there's any difference. And, frankly, I don't think Federal money should be used, whether it's a defense contractor or a political party, for partisan political activity, period. In fact, just for the record, I supported an amendment that was offered on the floor that, was defeated, that had included that language. But a member of your party elected to ask for a motion to reconsider, and it was defeated on the floor. I supported it.

Mr. SPRATT. So you think this should apply to defense contractors who get substantial contracts as well as organizations like the NCSC who have human resources contracts?

Mr. LONGLEY. I think, in principle, yes.

Mr. SPRATT. Now, are you actually accusing them of taking Federal grant money and spending it on political and partisan activities?

Mr. LONGLEY. I'm saying that, as a practical matter, it's impossible to make a distinction, particularly when the group has received 96 percent of its funds from the Federal Government.

I'll go one step further. Their own national director of communications, or their spokesman, has been actively involved, in the last week or two, arguing with me over this group's partisan activity. In one case, I was informed by a reporter for a newspaper in my State that they defended their right to engage in partisan activity as they saw fit.

I might add one other point: I visited with the Green Thumb Program, which is active in my State—and this is kind of significant, because contrary to assertions that were contained in news media coverage of the National Council in my district, that suggested or implied or failed to object to a statement that they the National Council, employed 324 people in my State. The fact is, they do not employ anyone in my State.

Mr. SPRATT. They placed 324 people in the State.

Mr. LONGLEY. No, they didn't place 324 people in my State. The Green Thumb Program placed 324 people in my State. And by way of contrast, Green Thumb approached me back in February, concerned about the impact of Federal grants and the possible changes in the job training programs. I met with them. I met with 10 or 20 of the participants in that program. We had a very cordial dis-

cussion. They informed me of what they felt the benefits of it were, but they have not lifted a finger in any type of partisan activity.

I will also add that I have heard participants in the Green Thumb Program who are upset at the tactics that are being used by the National Council.

Mr. SPRATT. But what we've got here is not just lobbying for the—you're complaining about partisan political activity directed at you as a candidate.

Mr. LONGLEY. No, as a Member of Congress.

Mr. SPRATT. This bill goes much further. Political advocacy is broadly defined, is one of my major problems with it, to include even the communication that Green Thumb made with you. That would be a prohibited type of contact under this particular grant.

Mr. MCINTOSH. If the gentleman would yield.

Mr. SPRATT. Certainly.

Mr. MCINTOSH. Let me clarify. There is an exemption in the bill that says, when an organization is providing information to a Government entity or a member of a legislative body that has been requested, that is not lobbying or an advocacy activity that counts toward the 5-percent threshold. Even if it did, they would have the 5-percent threshold that they would be able to operate under. But, in this case, it's spelled out that it's not an advocacy activity.

Mr. SPRATT. But he would have to initiate the request in order to qualify that as an exempt activity? He would have to go to Green Thumb and say, "Come to me and tell me how your program is working"?

Mr. LONGLEY. I think that there's a way of dealing with an appropriate need for an exchange of information. We have a very large and complex Government. Any one of us knows how difficult it is to obtain good information. Any one of us also knows how difficult it is when an agency of the Federal Government or one that's heavily dependent on Federal funds takes it upon themselves to pursue their own agenda and push beyond the honest exchange of information.

So it's a question of how you would draw the line, and I think that the chairman and his cosponsors are to be commended for attempting to find some solution to the problem. It is a problem; there's no question about it.

Mr. SPRATT. And I'm not at all satisfied that this bill has solved it with the line-drawing that's done in it. My time long ago expired. Thank you, though, for your answers. I appreciate the clarification.

Mr. MCINTOSH. Mr. Spratt, let me read from the statute so that we have that in front of us. "The term 'influence legislation or agency action' does not include making available the results of a nonpartisan analysis, study, research, or debate; two, providing technical advice or assistance, where such advice would otherwise constitute the influencing of legislation or agency action, to a Government body or to a committee or other subdivision thereof, in response to a written request by such body or subdivision, as the case may be."

Mr. SPRATT. If I could respond to the chairman, his point is well taken. But I had never heard of Green Thumb until they came to me. And I couldn't have guessed what they did or how they were affected by Federal grants until they laid it out to me and ex-

plained their own program. I think you probably had that experience yourself, as a freshman Congressman.

Mr. MCINTOSH. Yes.

Mr. SPRATT. There are lots of things you learn every day and people walk into your office to tell you about. You don't even know to request it. So if the exemption is conditioned on your initiating a request, then it's problematical, I think.

Mr. LONGLEY. I think there's certainly an issue to be dealt with. There is a need for information, and, as a Member of Congress, I can't always depend on my own imagination to conjure up who I should be talking to.

Mr. MCINTOSH. Thank you, Mr. Spratt.

I think we will go until we hear the 10-minute bell. Let me ask, on this side, Mr. Ehrlich, do you have any questions for this panel?

Mr. EHRLICH. No.

Mr. MCINTOSH. OK. Ms. Slaughter, you have a question for me.

Ms. SLAUGHTER. Well, I do, Mr. Chairman.

I was just handed a copy of this, and it appears to me to have come from the Alliance for Justice, Mr. Skaggs. At least that's what the letterhead says. What reason do you have to think that this is not theirs?

Mr. SKAGGS. Well, representatives of the Alliance have said that they did not prepare it and, in fact, said that they had heard from committee staff that the committee staff did prepare it, presumably to embarrass them and to make it appear as though it was their product, not the committee staff's. There is no disclaimer on it to indicate.

Ms. SLAUGHTER. Mr. McIntosh, I would like to ask you, then, is that true? I've never seen that happen in the years I've been here, and I find that not exactly a good way to run a Government.

Mr. MCINTOSH. If the gentlelady would yield.

Ms. SLAUGHTER. I will.

Mr. MCINTOSH. Looking at this document, with which I wasn't familiar before the hearing, let me say, and asking the staff, it was produced by our staff; it is on their letterhead.

Ms. SLAUGHTER. It's on your letterhead, you mean?

Mr. MCINTOSH. On the Alliance's letterhead.

Ms. SLAUGHTER. On the Alliance's. You produced it on their letterhead?

Mr. MCINTOSH. It should have had a disclaimer that the information about grant totals was put on there by the staff. It wasn't intended to mislead or embarrass, and we don't have any problem telling people where it came from.

Ms. SLAUGHTER. Then what was it intended for?

Mr. MCINTOSH. It was intended to point out that the Alliance indirectly receives a substantial amount of benefit from the Federal Government.

Ms. SLAUGHTER. Are these accurate numbers?

Mr. MCINTOSH. As far as I know they are accurate, and I would be interested to see what the Alliance says about that.

Ms. SLAUGHTER. May I ask them? Is there anybody here from the Alliance?

Mr. MCINTOSH. They will be before us later in the hearing.

Ms. SLAUGHTER. Well, I just want to make this one statement, because what concerns me is, when Mr. Skaggs, who is a perfectly reputable Member of the Congress of the United States, said that your staff had prepared this thing, you said that was a lie, didn't you?

Mr. MCINTOSH. Ms. Slaughter, if you would yield.

Ms. SLAUGHTER. Yes.

Mr. MCINTOSH. I did not say that. And I apologize if it's construed to have implied that. My implication was that there's a lot of misinformation about the substance of our legislation, not about the source of this document, which I was unaware of until you asked me the question.

Ms. SLAUGHTER. And I appreciate that, but do you think this is misinformation? Are you maybe producing some of the misinformation that's going around?

Mr. MCINTOSH. I'm pretty confident that it's accurate information. I think we should put a disclosure on it, and we'll gladly collect all the copies and reissue it with that type of disclosure.

Ms. SLAUGHTER. I'm not going to ask any questions, but I certainly want to close with what Mr. Skaggs said. Frankly, I think that your use of taxpayers' equipment and time and money and a staff of people paid by the U.S. taxpayers to do something like this is pretty reprehensible. And, frankly, maybe we ought to write legislation to keep you from doing that.

Mr. MCINTOSH. Let me turn now to Mr. Gutknecht.

Mr. GUTKNECHT. Mr. Chairman, I want to come back to Mr. Skaggs, and I want to see if I understand exactly what your point of view is on this. Going back to this tax return that Mr. Longley has presented here, is it your position that that is not a problem, that the arithmetic is wrong, or is it your position that what has happened here is clearly a violation of the law right now, and those people should be prosecuted?

Mr. SKAGGS. I do not hold myself out as an expert on the internal workings of the National Council of Senior Citizens. There is no substantive difference between their dependence on Federal funds for their grant activities, as Mr. Spratt was pointing out, and the dependence of a Lockheed-Martin on Federal contracts for the lion's share of their Government-supported activities.

My problem with this legislation is that it reaches way beyond any effort to prohibit the use of Federal moneys for purposes that the Congress, in its wisdom, may find inappropriate. It goes to the use of private funds. It goes to the private associations of free citizens of this country, where they can do their business, to whom they have to report, to whom they are accountable for activities protected by the first amendment to the Constitution. That's what's wrong with this legislation.

Mr. GUTKNECHT. I understand that you don't like this legislation, but are you willing to acknowledge that this is a problem that needs to be solved?

Mr. SKAGGS. Well, the problem that my colleague from Maine pointed out was a problem that any auditors could write, for instance, again, about the Lockheed-Martin Corporation. If you are dependent unduly on one source of funds, that indicates a vulner-

ability. That's why there's a lot of diversification going on in this country on the defense side right now.

Mr. GUTKNECHT. If we could get a yes or no. I mean, is this a problem? I mean, do you acknowledge that there is a problem? Before you can ever solve a problem, you have to acknowledge that there's a problem.

Mr. SKAGGS. No. I think, if the National Council is properly carrying out responsibilities that they have agreed to as a grantee of an agency of the Federal Government, in furtherance of Federal law passed by this Congress, the fact that that may be the lion's share of what the Council does may be a problem for them if that grant goes away. As long as they are conducting themselves otherwise in compliance with law, that's their problem, not ours.

Mr. EHRLICH. Would the gentleman yield?

Mr. GUTKNECHT. I'm not getting to the answer, but I yield to the gentleman.

Mr. EHRLICH. Would my colleague yield, just as a brief followup?

Mr. GUTKNECHT. Yes.

Mr. EHRLICH. Thank you.

On the basis of the evidence you've heard today, do you have an opinion as to whether they're following the letter of the law?

Mr. SKAGGS. I came here to testify about the unconstitutional proposal that you and Mr. McIntosh and Mr. Istook are trying to ram through this place. I'm not here as an expert on the National Council.

Mr. EHRLICH. Thank you for your answer.

Mr. MCINTOSH. Mr. Gutknecht, if you have no further questions, I think we will stand in recess. I'm told there are two votes and they will be the last votes of the day, and we can return at the end of the second vote. If there are any members who have not had questions, who have them for you, are you able to return after that, both of you?

Mr. SKAGGS. You bet.

Mr. LONGLEY. Yes.

Mr. MCINTOSH. Thank you. We will stand in recess.

[Recess.]

Mr. MCINTOSH. The subcommittee is in order.

I have no further questions for this panel. Ms. Slaughter has no further questions. We appreciate your coming and participating today. We will leave the record open for 3 days, if you have any additional comments you would like to put in there.

I appreciate your giving us your analysis, Mr. Skaggs. We will look at it and respond to you if there are any points where we interpret the language differently, and take a look at it from there.

Mr. SKAGGS. Mr. Chairman, if I might ask, at this time, to submit for the record a letter from the counsel for the Northern Colorado Water Conservancy District, with his legal analysis of this legislation as it pertains to recipients of Bureau of Reclamation water.

Mr. MCINTOSH. Seeing no objection, we will include that in the record.

Mr. SKAGGS. Thank you.

[The information referred to follows:]

HOBBS, TROUT, & RALEY, P.C.,
ATTORNEYS AT LAW,
Denver, CO, Sept. 21, 1995.

Hon. BOB LIVINGSTON,
2406 Rayburn House Office Building,
Washington, DC.

Re: H.R. 2127, Restrictions on Political Advocacy by Federal Grant Recipients

DEAR REPRESENTATIVE LIVINGSTON: I have had the opportunity to examine the political advocacy restrictions added to H.R. 2127, particularly from the standpoint of its potential applicability to my client, the Northern Colorado Water Conservancy District and Municipal Subdistrict.

I conclude that the bill, though it would exempt state and local governments would apply to recipients of water from the District and Subdistrict, including agricultural ditch companies, rural domestics, and businesses, for the purposes of redistricting speech and advocacy by them in federal, state, and local governmental forums.

The District and Subdistrict are political subdivisions of the State of Colorado established under Colorado's Water Conservancy Act, C.R.S. § 37–45–101, *et seq.*

H.R. 2127 includes an exemption for state and local governments by which no provision of that bill would apply to such entities (see p. 87, lines 1–5, definition of "grantee" in relation to lines 12–25, p. 78). H.R. 2127 does not define the term "local government," thereby leaving that term to be determined on a case by case basis. Presumably, state law would determine what is "local government" in that state.

In Colorado, water conservancy districts constitute "local government" in that they are governmental entities with local jurisdiction established by the State of Colorado.

Accordingly, under H.R. 2127 as presently constituted, the provision of the bill would not apply to the District or the Subdistrict.

However, the exception for local government does not extend to recipients of a "grant" from a local government (see lines 3–5, page 87). The delivery of water by the District and Subdistrict to its contracts could be viewed as a grant which would subject the recipient of the water to the provisions of H.R. 2127, because grant is defined as "the provision of any . . . other thing of value to carry out a public purpose of the United States" (see lines 15–18, p. 86).

District and Subdistrict water is delivered through the Colorado-Big Thompson Reclamation Project, which was constructed pursuant to federal reclamation law, for the purpose of carrying out the public purpose of the United States to provide water for multi-purpose agricultural, municipal, industrial, and recreational uses.

Accordingly, I conclude that H.R. 2127 would apply to the agricultural ditch companies, rural domestic water suppliers, and business which receive water from the District and Subdistrict and, perhaps, also to the cities which receive water from the District and Subdistrict, in that the general exclusion for local government (lines 1–3, p. 87) may be overcome by the specific provision which subjects a recipient of a local government grant to the terms of H.R. 2127 (lines 3–5, p. 87).

The provisions of H.R. 2127 are very comprehensive and intrusive. They are designed to include the regulation of non-federal funds expended in the course of executive, judicial, and legislative Federal, State, and Local governmental forums for the purpose of presenting a case or point of view (see lines 20–25, p. 78). Violation of the provisions of the bill would be attended by criminal and civil penalties. The accounting, auditing, and enforcement of the provisions is likely to be costly and intimidating.

The precedent of utilizing a federal statute to regulate the right to speech and advocacy, were this bill to become law, is appalling. Debate on the Federal, State and Local level—the surest tool to sound government—would be throttled.

I urge defeat of this legislation.

Sincerely,

GREGORY J. HOBBS, Jr.

Mr. MCINTOSH. Thank you both for coming and participating. Thank you for coming back after the vote.

Let's move on now to our next panel of witnesses. There are two representatives of the charitable sector. The first is Isaac Randolph, who is executive director of St. Florian Center, and the second is C.J. VanPelt, director of public policy for the YMCA of the United States of America.

If I could ask both of you to please rise. Mr. Clinger has asked us to swear in all of the witnesses before this subcommittee.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you. Please let the record show that they both answered in the affirmative.

Let's hear first from Mr. Isaac Randolph, who is from my home State of Indiana, Indianapolis, and has donated his own time and effort in creating what I think is an extremely worthy program for the youth of that city.

Mr. Randolph.

STATEMENTS OF ISAAC E. RANDOLPH, JR., EXECUTIVE DIRECTOR, ST. FLORIAN CENTER, INDIANAPOLIS, IN; AND C.J. VAN PELT, DIRECTOR OF PUBLIC POLICY, YMCA OF THE USA

Mr. RANDOLPH. Thank you, Mr. Chairman.

Good afternoon to the chairman and the committee members. I would like to thank you for the opportunity to declare my support for the Istook-McIntosh-Ehrlich grant reform amendment.

My name is Isaac E. Randolph, Jr., and I am an Indianapolis firefighter, and founder and executive director of the St. Florian Center, a youth leadership program. During my 10-year tour of duty as an Indianapolis firefighter, I witness daily acts of short-sighted decisionmaking practices within our youth population. Many times these decisions lead to actions that leave a wake of destruction, afflicting the lives of individuals and families alike. From these experiences came my motivation to develop the St. Florian Center.

Named after the patron saint of firefighters, the St. Florian Center was created in 1993, to address the critical leadership development needs of our inner-city youth. Our principal focus is a 9-week summer leadership camp that is currently operated on the campus of Butler University in Indianapolis.

During our 45-day operation, we teach 60 boys and girls, between the ages of 10 and 15, various aspects of leadership principles and how they relate to business, law and Government, community service, and the sciences. The objective of the summer camp is for cadets, through practice of leadership skills and techniques, to assume total operational control of the camp prior to the end of the 9 weeks.

To date, we have served over 200 youths and their families from Indianapolis, providing not only safe educational activities during the summer, but also a chance for many of them to develop the skills and character traits necessary to become contributing members of society. In short, we practice the premise that leaders are made and not born.

At this time, I would like to state that the following statements reflect my personal opinions and observations concerning current Federal grant funding issues. In creating the St. Florian Center, I had very little experience with developing a grassroots organization and quickly realized that, if I am to be successful, I must develop some of my core beliefs about the concept of nonprofits. My core beliefs soon became my litmus test for any activity that could have impact on my organization. To test an activity or concept for appropriateness, I simply asked four simple questions concerning its ef-

fect on our clients, our mission, the public trust, and fiscal viability.

Those questions are: Does it directly serve our client? Does it fall within the mission of our organization? Will it enhance the public trust of our organization? And, finally, is it a fiscally responsible act?

Mr. Chairman and committee members, it is because of my core beliefs that I am here today to testify in support of the Istook-McIntosh-Ehrlich amendment. I believe that, currently, Federal Government grants not only fly in the face of my personal beliefs but probably in those of most grassroots philanthropic agencies as well.

It is truly difficult to see how a client benefits from a dollar he or she never sees. In my opinion, Federal dollars finding their way back to Washington via the lobbying system does an incredible disservice to the most important element of community service, the client.

As a nonprofit organization, I believe that an agency's mission should drive its action, and any deviation from such needs to be looked on with a certain amount of scrutiny. It would be interesting to see the mission statements of those organizations that funnel a considerable amount of their funding toward influencing legislation. One would imagine that few, if any, of these organizations were chartered to be political action committees.

Another consideration is public perception. Public trust is one aspect that all nonprofit organizations should have in common. As a donor, most individuals or organizations believe that their contributions will be used in a prudent and efficient manner by the recipient. If an agency violates that trust through disproportionate fund allocation systems, then all nonprofit organizations are viewed with skepticism. A ripple effect such as this could have a negative impact on all nonprofit entities and the people they serve.

Mr. Chairman, being involved in the never-ending chase for limited dollars, I would be hard-pressed not to support this amendment before the committee. As I prepare to close, I want to tell you my story about how I stretch a dollar.

This year I had a staff of eight college students who worked tirelessly in the development of my cadets' character, leadership traits, and communication skills. Working on an average of 45 to 50 hours a week, they were compensated at a paltry rate of $3 an hour.

It deeply disturbs me that small, newly developed agencies such as ours must scrape to make ends meet, yet there are literally millions of dollars flowing back to Washington, essentially untouched by the local community. I can only hope that, with the approval of this amendment, an environment that promotes client well-being, mission adherence, public trust, and fiscal responsibility will once again be prevalent in our communities.

Thank you.

Mr. MCINTOSH. Thank you, Mr. Randolph.

Let us hear now from Ms. VanPelt, and then we will proceed with questions.

Ms. VANPELT. Thank you. Mr. Chairman, members of the committee, my name is C.J. VanPelt, and I am the director of public policy of the YMCA of the USA. The YMCA of the USA public pol-

icy counsel, Janne Gallagher, is also with me today in the audience.

The YMCA of the USA will soon celebrate its 150th anniversary. Its mission is to put Christian principles into practice through programs that build healthy spirit, mind, and body for all. Currently, there are YMCA's operating in more than 2,000 communities in this country, with 6.2 million members, one-third of whom are children.

The YMCA certainly shares St. Florian's commitment to serving kids in community, and I am appearing before you today to be sure that the scarce resources that we all share are not spent on additional useless recordkeeping.

Specifically, I am here to discuss the YMCA of the USA's concern about the impact that the McIntosh-Istook-Ehrlich amendment would have the YMCA's participation in public policy. It is because YMCA's primarily are service organizations that advocacy, particularly as that term is defined in this proposal, is an inextricable part of our day-to-day activities. I might add, Mr. Chairman, that other major human services organizations share our concerns. Attached to my testimony, which you have before you, is a letter signed by the chief executive officers of 22 of the country's leading charities. We and they believe that this proposal is unnecessary, excessively burdensome, intrusive, undemocratic, and, most important to us, will reduce services to those in need.

YMCA's have a long-standing commitment to participation in public policy, but let me state, unequivocally, that the YMCA does not spend taxpayer money to lobby. Rather, YMCA's across the country are actively involved in building constructive relationships with State agencies, State elected and appointed officials, local and nonelected community leaders.

The heart of these relationships is the discussions that we have with these leaders about the services we provide and the children and the families that we serve. The purpose of these discussions is to help YMCA's better serve their communities, including their Government. And it is also to have Government officials and community leaders better understand and support us and our programs.

Our specific concerns with the amendment are, No. 1, that we feel that this proposal is an unprecedented effort to restrict a Federal grantee's use of private funds for advocacy activities. This proposal would seriously undermine our organization's ability to fulfill our mission.

Let me reiterate that grantees are barred, under current rules, from using grant funds to pay the direct or indirect costs of lobbying. Current law, as well, upholds the right of a grantee to engage in advocacy with its private funds. This proposal, we feel, strikes directly at the heart of that right.

YMCA's can't do their job if this measure passes. For example, in Baltimore, the YMCA became very concerned about the growing gang problem, and they convened an interest group that consists of Government representatives, community leaders, and elected officials to discuss the need to develop community-wide gang prevention programs.

As a result of these meetings, the whole community is now planning a comprehensive, community-wide strategy. This type of effort, which benefits the entire community and is reproduced across almost every region in this country, would be severely restricted by this proposal.

In addition, unlike the existing Federal grant and Federal tax laws, the proposal's definition of advocacy also includes all efforts to influence legislation as well as agency action. The boards of directors of YMCA's are made up entirely of volunteer community leaders, and often that means that these leaders have to address the community needs by speaking up and speaking out about Government and its programs, as well as establishing all the partnerships that it does.

For example, the Delaware YMCA continually works with State and Federal agencies to improve its programs. It has a relationship with the Wilmington Housing Authority to develop and deliver programs for pregnant teens, transitional housing, recreation, and socialization. It has a youth violence initiative in cooperation with the United Way. It has similar programs with the Department of Public Instruction, the Family Court, the Department of Public Safety and Highway Safety. It works with the Coast Guard. It works with the Air Force.

Developing good relationships with local and State officials is crucial to what we do in pursuit of our mission. All such contact under this proposal would constitute political advocacy. Our second concern is that this proposal imposes major new reporting and recordkeeping requirements on both Federal grantees and the Federal Government. It not only restricts our ability to do good works, but we feel it is a blatant intrusion into the affairs of a private organization.

Regardless of the size of a Government grant an organization receives, in relation to its budget, this requirement translates into expensive and complicated recordkeeping. We have to account for advocacy expenditures under IRS regulations, under 501(c)(3) regulations, and under this. We have to track things by our own fiscal year; we have to track things by the Federal fiscal year.

For instance, in Sarasota, FL, they spend $18,000 every single year, of their private funds, on Federal and State compliance audits. They estimate that this proposal will cost them an additional $5,000 to $10,000 to comply with, and that's money directly out of program.

In addition is the 15-percent requirement that says that we can't do business with vendors that spend more than 15 percent of their budget lobbying. We have, nationally, relationships with vendors and collaborations of 148,000, Mr. Chairman. That's statements that have to be collected, written, filed, and reported.

Our other concerns are enumerated here, including harassment, the fact that it opens us up for harassment, that it only targets nonprofits, and that it raises institutional concerns, in addition to the fact that it is money directly out of our budgets to comply with it.

Mr. Chairman, in the YMCA's opinion, your proposal is far-reaching and extreme, and we don't feel it is in the public interest.

Thank you.

[The prepared statement of Ms. VanPelt follows:]

PREPARED STATEMENT OF C.J. VAN PELT, DIRECTOR OF PUBLIC POLICY FOR THE YMCA

Mr. Chairman, Members of the Committee:

My name is C.J. VanPelt, and I am the Director of Public Policy for the YMCA of the USA. The YMCA in America, which will soon celebrate its 150th anniversary, has as its mission, "To put Christian principles into practice through programs that build healthy spirit, mind, and body for all. " Currently there are YMCAs operating in more than 2,000 communities in this country with 6.2 million members nationwide, one-third of whom are children and youth. Each YMCA is autonomous and is supported and maintained by its community.

The YMCA of the USA is the national organization, governed by a national volunteer board, which sets policy and priorities for the national movement. The YMCA of the USA exists solely to serve its member associations. It offers assistance with all aspects of running a YMCA, including programming, management, training, insurance, and many other services. It also leads the movement by directing those national and international activities that are too large for any one association or that clearly need a uniform approach across the movement. Public policy advocacy is a small but vitally important part of the mission of the YMCA of the USA.

I am appearing before you today primarily to discuss the YMCA's concerns about the impact that the McIntosh/Istook/Ehrlich proposal would have on YMCAs' participation in the development of public policy. YMCAs are nonpartisan organizations whose primary focus is providing a broad range of social services from health and fitness to anti-gang programs. No matter what the program or service, from child care to senior arthritis classes, the YMCA's main focus is service to the community in pursuit of its mission. Because YMCAs primarily are service organizations, advocacy, particularly as that term is defined in the McIntosh/Istook/Ehrlich proposal, is an inextricable part of our day-to-day activities.

Other major human service organizations share the YMCA's concerns. Attached to my testimony is a letter signed by the chief executive officers of 22 of this country's leading charities. We, and they, believe that the proposal is unnecessary, excessively burdensome, intrusive, undemocratic, and will reduce services to those in need.

OVERVIEW OF YMCA ADVOCACY

YMCAs have a long-standing commitment to participation in public policy. The national board of the YMCA of the USA has developed five goals for YMCAs' involvement in the public policy process. These five goals, which guide the actions of YMCAs at the national, state, and local levels, are intended to ensure that YMCA advocacy is consistent with the YMCA mission. The goals are:

- to advance YMCA mission objectives;
- to provide nonpartisan education and identify consensus on issues related to the YMCA mission;
- to encourage participation in the political process;
- to strengthen the mission focus of YMCA leadership; and
- to preserve the ability of the YMCA to accomplish its mission.

Nationally the YMCA of the USA monitors and advocates on behalf of our member associations on five priority issues: child care; juvenile justice, crime and gangs; substance abuse; youth health and fitness; and youth service. Our national priority issues are derived from a periodic national survey of YMCAs to determine their interests. The latest survey was completed in the spring of 1994. The national board reviews the survey results and formulates position papers that guide the actions of the Public Policy office. The position papers on our current priorities are appended to this testimony. The YMCA of the USA also monitors and advocates on issues that affect the non-profit sector in such areas as governance, operations, and charitable contributions.

YMCAs are also actively involved in building constructive relationships with state agencies, state elected and appointed officials, as well as local elected and non-elected community leaders. The heart of these relationships is continuing discussions about the services we provide, and the children, youth, and families we serve. The purpose of these discussions is to help YMCAs, working alone and in cooperation with other community organizations, better serve their communities and to help government and community leaders understand and support the YMCA.

The full statement of the YMCA of the USA's goals for the public policy process and our position papers on our current priorities are appended to this testimony. These documents make it clear that mission-related and mission-impelled advocacy

is vital to the YMCA, and the process for delineating and expressing our institutional views is well-defined and broad-based within the organization.

OVERVIEW OF YMCA GOVERNMENT FUNDING

In 1994, the YMCA received just over $1.9 billion in revenues, 93 percent of which are private funds. In response to requests from governments at the local, state, and federal levels, nine hundred sixty-nine YMCAs receive some type of government funding. The national average for revenues from all government sources—federal, state, and local—is 7 percent.

Most YMCAs' government funding comes from the Child Care and Development Block Grant in the form of subsidies for child care for working poor parents. Most other grants to YMCAs, while originating from the federal government, come to them as pass-throughs from states, school districts, municipalities, and courts. The funding for these comes from Community Development Block Grants, the Office of Juvenile Justice and Delinquency Prevention, and HUD Drug Elimination Grants.

Compared with other human service providers, YMCAs receive relatively little of their support from government grants. There are two principal reasons for YMCAs' reluctance to accept government funding. First, many YMCAs worry that they will not be able to sustain new programs begun with government money if those funds are later withdrawn. Second, there is a long-standing concern on the part of many YMCA board members that the receipt of government funds will lead to unwarranted governmental intrusions into the operations of private organizations. The measure before you can only confirm those fears.

YMCA CONCERNS WITH THE MCINTOSH/ISTOOK/EHRLICH PROPOSAL

The McIntosh/Istook/Ehrlich proposal is an unprecedented effort to restrict federal grantees' use of private funds for advocacy activities. This proposal would seriously undermine the grantee organizations' ability to fulfill their missions.

Grantees are barred under current laws from using grant funds to pay the direct or indirect costs of lobbying. Current law upholds the right of a grantee to engage in advocacy with its private funds. This proposal strikes directly at the heart of that right. It is common practice for the YMCA and many other non-profit organizations to be involved both in the delivery of government-funded Services and in a range of activities that the McIntosh/Istook/Ehrlich proposal would deem political advocacy. Indeed, both types of activities are integral to the traditional role of non-profit, community-based organizations as mediating institutions between the individual and government. By forcing the YMCA and other non-profits to choose between advocacy and the delivery of government-funded services, this proposal would seriously undermine these organizations' capacity to mediate and serve as an effective advocate for their constituencies.

An example of the interconnectedness of our advocacy efforts is illustrated by the Baltimore YMCA. Recently, the YMCA, concerned about the growing gang problem in the city, convened an interest group—consisting of government representatives, community leaders, and elected officials—to discuss the need to develop effective gang prevention programs. As a result of these meetings, the community as a whole will plan and implement comprehensive, community-wide prevention strategies involving both the private and public sectors. This type of positive collaborative effort benefits communities in every region of the country, but it would be severely restricted by this proposal.

The McIntosh/Istook/Ehrlich proposal would dramatically broaden the range of activities treated as proscribed political advocacy, thereby negatively impacting a wide range of successful cooperative efforts between YMCAs and federal, state, and local governments.

Unlike existing federal grant and federal tax law rules, the proposal's definition of political advocacy would encompass all efforts to influence legislation and agency action, as well as participation in litigation involving governmental parties except where the grantee is a defendant. The latter restriction apparently would class as "political advocacy" a variety of routine litigation from efforts to collect unpaid bills owed by government agencies to appeals of adverse zoning decisions.

The proposal to treat efforts to influence executive branch decisions as political advocacy would have a particularly broad effect. The boards of directors of YMCAs are made up of volunteer community leaders. These volunteers give generously of their time to address needs and solve problems in their communities. Not always, but often enough, addressing needs means speaking up and speaking out about government and its programs, as well as establishing partnerships with schools, police departments, courts, housing agencies, state and county welfare departments and other government agencies that touch the lives of so many Americans. This proposal

to restrict advocacy by organizations that receive federal funding would substantially impair the ability of these volunteers to make their views known and to suggest ways in which administration of programs could be improved.

YMCAs are engaged in collaborative activities with a broad range of federal, state, and local government agencies. For instance, the Delaware YMCA continually works with state and federal agencies to improve its programs. It has built a relationship with Wilmington Housing Authority to develop and deliver programs for pregnant teens, recreation and socialization for youth, transitional housing, and the United Way's Youth Violence Initiative. This YMCA has also worked with the state Department of Public Instruction to provide better prevention programs for substance abuse and conflict resolution; with the state Family Court to serve as a resource for first-time offenders charged with substance abuse violations; and with the state Department of Public Safety and the Division of Highway Safety for a manageable system for background checks of child care and youth workers. The Delaware YMCA also works with the U.S. Coast Guard, for boating safety and training for camps throughout the northern Chesapeake Bay, and the Air Force, working with Dover Air Force Base during the Gulf War to help with additional logistical needs such as increased shower space. Developing good relationships with local and state officials is crucial to the pursuit of the YMCA mission of serving the entire community. All such contact would constitute political advocacy under this proposal.

The McIntosh/Istook/Ehrlich proposal would impose major new reporting and record-keeping burdens on federal grantees. The enormous record-keeping burden not only restricts the YMCA's ability to do good works, but is also a blatant intrusion into the affairs of a private organization.

The philosophy behind this proposal is antithetical to encouraging the community cooperation and coordination so vital to the success of community-based initiatives and programs. Regardless of the size of a government grant an organization receives in relation to its budget, grantees that engage in political advocacy would bear the burden of proving "by clear and convincing evidence" that they have not violated the proposal's restrictions on political advocacy. For grantees, this requirement translates into having to establish and maintain accounting systems to track, in considerable detail, their political advocacy expenditures. Because of the difference between the proposal's definition of "political advocacy" and the tax law definition of "influencing legislation," YMCAs and other 501(c)(3) grantees would be required to account for advocacy expenditures under both definitions. In addition, because the proposal requires tracking expenditures by the federal fiscal year, the vast majority of YMCAs that maintain financial records on a calendar year basis or which use a different fiscal year would incur additional costs in tracking reporting expenditures.

The Montgomery Alabama YMCA highlights the difficulty of quantifying the amount of time an organization spends in "political advocacy." In Montgomery, the YMCA's board of directors includes city council members and county commissioners. Further, the YMCA executive director chaired the city's Job Corps Center, and holds key volunteer positions in a variety of community initiatives. Around the country, YMCA board members and staff are frequently asked to accept volunteer positions for governmental task forces. The difficulty of attempting to accurately report the myriad of exchanges between local elected officials regarding the many programs and services the YMCA provides is daunting.

Besides the difficulty in identifying expenditures for "political advocacy," record-keeping and reporting create a substantial new financial burden on YMCAs. For example, the Sarasota, Florida, YMCA is the central provider for subsidized child care, and operates a transitional living program for homeless teens, a runaway shelter for troubled youth, a host of prevention/early intervention programs for teens and families, and an alternative school for expelled middle school and high school students. All of these programs utilize some federal and state funding. Currently the Sarasota YMCA pays $18,000 of their private funds every year for federal and state compliance audits. Based on their experience with current government compliance audits. they estimate that the additional cost of reporting under this proposal would be between $5,000 and $10,000.

Further, under this proposal, all grantees—even those that do not engage in "political advocacy"—must determine whether individuals or organizations from which they purchase goods or services. or to which they make subgrants or provide in-kind assistance, incurred political advocacy expenditures in the previous federal fiscal year in excess of 15 percent of their total expenditures. To be sure that they could meet the clear and compelling evidence standard, grantees would be obliged in a written statement on this point from each individual and organization to which the grantee made a significant transfer of funds or services. To put this into perspective, our national office estimates that a typical large YMCA purchases goods and serv-

ices from 300 to 500 vendors, and a small YMCA from 200 to 300. Each YMCA will have to determine, based on the activities of a program, which of those suppliers has any relationship to the grant program, then ask each for a voucher stating that they do not spend over the prohibited 15 percent on advocacy. Each of those reports must be requested, filed, and reported along with the annual reports described in the proposal.

The supporters of this proposal assert that the measure would impose only minimal record-keeping and reporting burdens. Even the most cursory estimates by current service providers show that this is simply not the case.

The McIntosh/Istook/Ehrlich proposal would also impose a major administrative burden on the federal government, which would result in an increase in government size and activity.

A natural concomitant of the reporting requirements placed on the recipients of funding is the imposition of a significant administrative burden on the federal government. Federal agencies would receive tens of thousands of annual reports from grantees, and would be required to (1) establish an audit program to ensure grantee compliance with the political advocacy restrictions, (2) provide free public access to all grant applications, grantee reports, and audit files, and (3) prepare a detailed annual report containing the information provided by individual grantees. The result of this proposal is contrary to the stated goal of this Congress to remove the most intrusive acts of government and to cut back on bureaucracy and paperwork. As one YMCA executive wrote to his Congressman, "You and I both know a ton of new government employees will be hired to process these reports and enforce the law also. Not too good if our goal is to reduce the size of government."

By giving private parties the right to file suit alleging violations of the restrictions on political advocacy, the McIntosh/Istook/Ehrlich proposal would expose federal grantees to a serious risk of harassment. This section of the proposal is a hunting license for anyone dissatisfied with an organization's programs or policies.

This proposal creates the obvious danger that individuals and groups opposed to any aspect of a grantee's activities could initiate, or threaten, litigation alleging a violation of the political advocacy restrictions. Grantees would bear a heavy burden of proof in defending such suits. This section would force YMCAs to spend their resources on lawyers and litigation, instead of programs vital to their communities across the country.

The McIntosh/Istook/Ehrlich proposal would create an unjustified disparity between the treatment of federal grantees and federal contractors. This proposal targets one group of federal fund recipients while exempting another.

As this proposal would not apply to federal contractors, they would remain free to devote their private funds, without limit, to political advocacy activities. The supporters of the proposal have not provided any convincing rationale as to why their stated concern—that the receipt of federal grant funds "frees up" the recipient's private funds for political advocacy—is not equally relevant to federal contracts.

YMCA programs funded by federal grant dollars provide tangible products—all of which directly benefit families and communities.

The McIntosh/Istook/Ehrlich proposal raises serious constitutional concerns which may take years to resolve.

The Congressional Research Service and several constitutional scholars have raised serious questions about the constitutionality of the proposal. These analyses conclude that the proposal's imposition of restrictions on privately-funded advocacy as a condition for the receipt of federal grants probably violates the so-called "unconstitutional conditions doctrine"—that is, the principle that while the government need not subsidize the exercise of a First Amendment right, it cannot require a person to give up a First Amendment right as a condition of the receipt of a governmental benefit. At least one commentator has concluded that the proposal's differential treatment of federal grantees and contractors also violates the Equal Protection clause of the Fifth Amendment.

CONCLUSION

The supporters of this proposal make the point repeatedly that government funding allows a non-profit to make use of its non-government funding to advocate for more funding. This assertion is incorrect for a number of reasons. First, non-profits advocate first and foremost for issues that affect them and their constituencies. Second, government grants rarely "free up" a non-profit's budget. Quite the contrary is true since almost all grants require an organization to begin a new program or expand an existing one, and most require the organization to contribute matching funds. In the first instance an organization must maintain funding at current levels for current operation; and in the second, it must raise additional revenue to support

the project. Added to this is the fact that every dollar that a YMCA spends on government reporting is a dollar taken out of programs—necessary programs that serve world class athletes to the disabled: prenatal exercise to bereavement counseling; transitional housing for the homeless to neighborhood civic association planning; and day care for seniors to infants in countless communities across the country.

By imposing restrictions on grantees' privately-funded advocacy, and by substantially broadening the range of proscribed political advocacy activities, the McIntosh/Istook/Ehrlich proposal constitutes an unprecedented—and probably unconstitutional—effort to silence federal grantees. The proposal would impose a significant administrative burden on both grantees and the federal government and expose grantees to a significant risk of harassing litigation. In light of these facts, the supporters of the proposal bear a heavy—and in the judgement of the YMCA—insupportable burden in attempting to demonstrate that this extreme proposal is in the public interest. If the perception of the supporters of this proposal persists that there is abuse of the current system, then I respectfully suggest stronger enforcement of current rules or the codification of them.

GOALS OF YMCA INVOLVEMENT IN THE PUBLIC POLICY PROCESS

Advance YMCA mission objectives.—Through effective public policy advocacy on mission-related issues, the YMCA can advance its mission objectives far beyond the persons YMCAs serve directly through their programs.

Provide nonpartisan education and identify consensus on issues related to the YMCA mission.—The YMCA is a mainstream community organization encompassing a diversity of political perspectives. The role of the YMCA should be to help develop a consensus position that can command broad support among local associations. YMCA public policy positions will carry far more weight if they can legitimately be said to represent the consensus views of a thousand local YMCAs rather that merely the national leadership. In order to encourage and facilitate participation, the YMCA public policy process will provide reliable, balanced, and "user friendly" resource materials on the issues under consideration. The resource materials should be nonpartisan and assist YMCAs to make informed priority decisions about how to allocate public resources and YMCA advocacy efforts.

Encourage participation in the political process.—At a time when millions of Americans are increasingly disaffected from the political process, a further important objective is simply to encourage understanding of and participation in the political process. As a movement whose stated objectives include helping individuals to develop their leadership capacities and to grow as responsible citizens, the YMCA has a special responsibility in the regard.

Strengthen the mission focus of YMCA leadership.—Involving local YMCA leaders in a sustained, well-informed discussion about major public policy issues related to the YMCA mission can significantly strengthen their ability to provide effective, mission-focused leadership for their YMCAs and for their communities. By discussing and evaluating major public policy issues related to the YMCA mission, local YMCA leaders will develop both a broader understanding and a renewed sense of the importance of YMCA activities.

Preserve the ability of the YMCA to accomplish its mission.—Through effective public policy involvement on mission-related issues, local YMCAs will reinforce the public's perception of the YMCA as a mission driven community service organization. YMCA leaders will also develop advocacy skills and strengthen important political relationships at all levels of government. The experience gained through this effort will prepare local associations to better respond to issues which may effect YMCAs' ability to serve their communities.

Adopted by the National Board of YMCAs on March 19, 1989.

YMCA INVOLVEMENT IN FEDERAL CHILD CARE LEGISLATION

General Principles.—Strengthening families and meeting the needs of children have always been, and remain, central to the YMCA mission. YMCAs have responded quickly and energetically to families' rapidly growing need for affordable, quality child care, and now provide care for approximately 500,000 children each year.

Based on this experience, YMCAs believe that government and the private sector should work together to develop policies that assist families in their primary task of raising children. These policies need to respect the diversity of family structure that exists today. These policies should support parents who choose to and are able to stay at home and care for their children as well as those who must work to provide for the general well-being of their children. General tax relief for low-income families, through refundable tax credits, or otherwise, may provide a partial means

of addressing this concern. However, the YMCA does not regard such general tax relief as an adequate substitute for a targeted child care strategy that assists low-income working parents and serves the developmental, social, and educational needs of their children.

YMCAs believe that federal child care policy should respect the following general principles.

Provide Federal Leadership.—The federal government should provide strong leadership in addressing the rapidly growing need for affordable, quality child care.

Provide Safe, Quality Child Care.—Safe, quality child care should be available to children of working parents regardless of their ability to pay. Effective regulation is a necessary component of safe, quality care, and federal policy should actively encourage state regulation of child care.

Target Low-Income Families.—Limited federal dollars for child care should be targeted primarily to low-income families. The federal government should not directly subsidize targeted child care for upper-income families.

Allow State Flexibility.—Federal child care policy should allow the states to concentrate the limited federal resources most effectively to assist families working toward self-sufficiency.

Foster Parental Choice.—Federal policy should maximize the child care choices available to families by supporting the diversity of the existing child care delivery system. States should be given the flexibilty to use federal child care funds to assist families using for-profit, nonprofit, church- and school-based providers, and family day care homes. None of these providers should be given an exclusive role in providing services to any age group of children.

Assist Child Care Providers.—Federal policy should support efforts to strengthen the child care delivery system, including training for child care providers, resource and referral programs, and grants for building and expanding child care programs.

Support State Initiatives.—A federal child care program should encourage, not discourage, states in establishing child care initiatives of their own.

Encourage Program Diversity.—Federal child care assistance should be delivered through racially, ethnically, and economically diverse programs that serve handicapped children.

YMCA National Board Position.—In accordance with the YMCA's general principles for federal child care legislation, the YMCA National Board approves the following:

Prompt Action.—1. The YMCA National Board supports prompt enactment of federal child care legislation consistent with the general principles set forth.

Act for Better Child Care.—2. As set forth above, the Act for Better Child Care provides an effective framework for advancing the YMCA's general principles for federal child care legislation. The YMCA National Board continues to endorse this legislation.

Tax Credits for Low-Income Families.—3. The National Board expressly concludes, however, that the enactment of the Act for Better Child Care does not and should not preclude enactment of tax credit proposals aimed at giving income supplementation to low-income families.

Adopted by the YMCA National Board, March 17, 1989.

YMCA PUBLIC POLICY POSITION ON JUVENILE JUSTICE, CRIME, AND GANGS

Promoting healthy mind, body, and spirit is central to the YMCA mission. YMCA programs nurture self-esteem and encourage positive behavior in youth. Such traits are essential to helping youth develop into healthy, productive adults.

The YMCA believes that a greater public and private investment should be made in the lives and well-being of our nation's youth. Government and the private sector should develop initiatives that strengthen the family, build self-esteem, and help youth make the right choices in life. The YMCA believes government policy should reflect the following fundamental principles:

Acknowledge that everyone is at risk.—The problem of youth crime and violence is not limited to urban areas, nor is it exclusive to minority communities. Programs should recognize that all youth are susceptible. Government policy should support programs that target youth from all types of communities—cities and small towns, suburbs and rural areas—and from all economic backgrounds.

Target special-needs communities.—Although no community is immune to the problem of crime, some are particularly at risk for crime and other social ills, such as high unemployment, high numbers of single parent households, areas of high drug activity, and high rates of poverty. Government policy should focus particular attention on these communities.

Emphasize prevention efforts.—Prevention should be a key element in the nation's strategy to reduce youth involvement in crime and gang-related activity. Prevention programs are the most cost-effective method of dealing with juvenile delinquency. Therefore, government policy should support initiatives that promote the positive development of our nation's youth.

Intervene early.—For those youth beyond the reach of prevention programs, both the public and private sector should encourage intervention programs. The primary goal of such programs should be to reach youth before they become chronic juvenile offenders. Research shows that there are simply not enough appropriate mechanisms in place within the juvenile justice system to deal adequately, and soon enough, with youth who have already committed crimes. Government policy should support the development of early intervention programs.

Support the family.—Families have the greatest influence in the lives of their children. Parents and other caregivers must take the primary responsibility for fostering the positive development of their children. Therefore, government policy should support families by promoting initiatives that will ensure the economic viability of America's families, encourage parents to be positive role models for youth, and involve parents and youth in planning and implementing youth development programs.

Encourage community collaboration.—The public, private, and nonprofit sectors must work together to provide comprehensive programs for youth. Partnerships should involve nonprofit youth- and family-serving organizations, churches, schools, the medical community, businesses, and government. Neighborhoods and communities should be involved in developing programs that meet community needs and program delivery systems that reduce unnecessary duplication of services. Government policy should support community partnerships and encourage programs involving public-private ventures at the state and local level.

Support creative programs.—Community-based organizations evolve to meet community needs. Such organizations develop new and creative ways of meeting the needs of youth and their families. Government policy should recognize and encourage such creativity, and the unique ability of community-based groups to evaluate programs and to distinguish those that are effective from those that are not.

Support initiatives that reduce handgun accessibility.—No organization that is serious about addressing the epidemic of youth crime and gang activity can ignore the influence of handguns. Handguns today are not only more readily available generally but are far too accessible to our nation's youth. Government policy should support local initiatives that reduce handgun accessibility.

Increase public information about the cost of juvenile delinquency.—When youth are involved in crime and/or gang related activity, we all pay the cost—not only in terms of the high cost of incarcerating youth but also in lost wages, lost potential, and wasted young lives. Therefore, government policy should support public education campaigns that explain the cost effectiveness of offering community-based youth development programs.

Adopted by the YMCA of the USA National Board, November 18, 1994.

YMCA PUBLIC POLICY POSITION ON SUBSTANCE ABUSE

General Principles.—Building self-esteem, developing healthy lifestyles, instilling positive values, and strengthening families are central to the YMCA mission and are important elements of a national substance abuse policy. YMCA programs offer people opportunities to grow mentally, physically, and spiritually.

The YMCA is one of the largest youth-serving organizations in the country. Over 6 million children and teenagers participated in YMCA programs last year. Young people come to the YMCA for a variety of reasons, but once there, they find a wholesome environment where they can learn about themselves, develop positive life skills and values, and have fun.

YMCAs believe that today's substance abuse problem requires a coordinated strategy involving government and the private sector. YMCAs' major efforts will continue to focus on youth development as a primary prevention strategy.

However, YMCAs are also committed to working in partnership at the local, state, and federal levels, not only to help young people stay away from drugs, but also to help kids stop who may be experimenting with drugs, and to ensure adequate treatment for people in need of recovery. YMCAs believe that drug policy should reflect the following principles:

Recognize Alcohol and Tobacco as Key Elements of the Substance Abuse Problem: Government policy should recognize that tobacco, alcohol, and other legal drugs represent a significant threat to the health of all children and youth. Government pol-

icy should define the problem to include tobacco, alcohol, and over-the-counter drugs as well.

Acknowledge That Everyone Is At Risk: Effective programs recognize that all children are at risk of addiction. Therefore, government policy should support programs that involve people of all ages, from rural and urban communities, and from all economic classes.

Give High Priority to Prevention Efforts: Programs that promote self-esteem and healthy lifestyles and that teach decision making help people develop skills that improve their chances for leading positive, successful lives, and they prevent young people from becoming substance abusers. Shrinking the supply of drugs involves huge outlays of resources; that strategy will never be as successful as initiatives directed at shrinking the market. Therefore, prevention should be a significantly higher priority in government substance abuse policy. Federal, state, and local prevention programs should encourage the development of new, creative approaches to preventing substance abuse among youth.

Provide for Early Intervention: Children and teens who experiment with tobacco, alcohol, and other drugs—or who experience related problems—should be provided with services to prevent the development of severe addiction problems in the future. Government policy should recognize and support the development of early intervention programs.

Ensure Access to Treatment Programs: These should be available to people who are addicted to alcohol and other drugs. Government policy should promote recovery. Communities should be provided resources to develop programs that meet the varied needs of addicts and that advance the recovery process.

Recognize the Importance of Involving Families: Services provided to those affected by substance abuse should focus on the family. Government policy should provide support to families and should involve parents in developing programs for children.

Increase Public Information About the Risks of Tobacco and Alcohol: Everyone pays for substance abuse, directly or indirectly. The severe consequences of addiction demand that policies encouraging tobacco and alcohol use be curtailed. This should include a prohibition of advertising encouraging youth to smoke or drink. Government policy should support public education campaigns.

Promote Research: The knowledge base has not kept pace with growing awareness about the problems associated with substance abuse. There is a great need for information about the problem, possible solutions, and effectiveness of programs. Government policy should promote and fund applied research studies.

Promote Community Collaboration: Neighborhoods and communities must be encouraged to create initiatives that reflect the needs of the people who live in them. Government policy should provide funds and other incentives and should support programming that involves public/private partnerships at the local level.

Involve Community-Based Organizations: Nonprofit, community-based organizations are critical providers of successful prevention, early intervention, and treatment programs. Government policy should provide funds and other incentives to increase these groups' effectiveness. Furthermore, government programs should not limit eligible providers; they should involve schools, for-profits, and nonprofits in programs.

Encourage Innovation and Replicate Successful Local Programs: Solutions to the problems associated with substance abuse require innovation, risk taking, and creative programming. Government policy should support such efforts and should recognize successful models for replication in other communities. Government policy should also recognize the needs of local programs for a sustained commitment to funding.

THE YMCA PUBLIC POLICY POSITION ON YOUTH HEALTH AND FITNESS

Promoting healthy mind, body, and spirit is central to the YMCA mission. For over a century, YMCAs have provided accessible and affordable health and fitness programs to meet the needs of children and families. In YMCA youth health and fitness activities, the emphasis is on developing self-esteem, providing positive adult role models, promoting good health, and respecting others—values that are essential to helping a young child develop into a healthy adult. YMCAs are committed to strengthening the self-confidence and self-reliance of youth to help them make their own healthy choices. YMCAs know it is better to help young people develop healthy behaviors and enjoy physical fitness, than to pay the high costs of health care later.

As one of the nation's largest youth-serving organizations—last year over 6 million young people participated in YMCA programs—YMCAs recognize that the health of the nation's children is at-risk. Many children are at-risk of long-term

health problems due to lack of regular physical exercise and poor diet. For example, close to 50% of school children between five and eight years of age suffer from one or more of the following risk factors associated with future heart disease: elevated blood cholesterol level, obesity, hypertension, and sedentary lifestyle. Second, among 6- to 11-year-olds, there has been a 54% increase in the prevalence of obesity, and a 98% increase in the prevalence of superobesity since 1969. Finally, compared to other countries, American children are much less fit: 44% of American children failed a flexibility test, compared with 6.1% of Italian and 8.4% of Swiss, and 9.1% of Austrian children. In addition, too many infants and young children suffer from preventable illness because they lack access to health services.

YMCAs believe a greater public and private investment needs to be made in the health of America's children. Government and the private sector should develop initiatives to strengthen the health and fitness of children and youth. These initiatives should emphasize prevention and reflect a holistic approach to healthy lifestyles. Therefore, YMCAs believe the government policy should reflect the following principles:

Emphasize prevention efforts: Prevention should be a key element in the nation's strategy to reduce health care costs, avert disease and disability, and help children develop into productive adults. Government policy should support prevention programs and efforts that foster the healthy development and improve the physical fitness of children, youth, and families.

Support the family: Families have the greatest influence on the behavior of young children. Parents and/or primary care givers must take the principal responsibility for the health and positive development of their children. Therefore, government policy should support families, encourage parents and/or primary care givers to be positive role models for their children, and involve them in development programs.

Increase public information about the importance of healthy lifestyles: The costs of inadequate health care, poor diet, and lack of exercise demand that efforts be expanded to promote healthy lifestyles. Most important, public education programs should clearly portray the consequences of unhealthy habits and lack of concern for one's health. Government policy should support health information campaigns that communicate the need for youth and families to accept responsibility for their health by adopting health-enhancing behaviors.

Encourage community collaboration: The nation's commitment to its children's health should be supported by the public and private sectors. Partnerships should involve nonprofit youth- and family-serving organizations, churches, schools, the medical community, businesses, and government. Neighborhoods and communities should be involved in the development of programs reflective of community needs and delivery systems that reduce the unnecessary duplication of services. Government policy should support community collaborations and support programs involving public/private partnerships at the local and state level.

Provide for a coordinated delivery system: Government agencies, schools, and nonprofit community-based organizations all operate successful program models. Primary health care services, health education, and fitness activities all share a common goal—to promote healthy lifestyles. These programs often target specific needs or populations. Coordination among providers should be a high priority in the design and delivery of health services and fitness programs. Therefore, government policy should promote coordination among youth and family services and support incentives to increase the effectiveness of these programs within the community.

Foster innovation: Developing a nation of healthy children will require innovation and creative programming. Government policy should encourage states and communities to establish initiatives that improve youth health and promote healthy lifestyles. Government policy should encourage the discovery and replication of successful models that emphasize participation of all youth and provide for a sustained commitment to supporting these model programs.

Approved by the YMCA National Board, May 1992.

PUBLIC POLICY POSITION ON YOUTH SERVICE

General Principles.—The YMCA is our nation's largest charitable voluntary service organization. It has 140 years of experience with volunteer activities that reflect the interest and commitment of those who serve the needs and expectations of those who are served.

The YMCA mission is to build healthy body, mind, and spirit in the individuals and families it serves. The YMCA puts Christian principles into practice through programs that promote good health, strong families, youth leadership, community development, and international understanding. Y's believe that people are responsible for their own lives and actions and that they should join together in positive

association to serve the needs of all. These principles are expressed in all Y programs—programs that involve people of all ages, from infants to senior citizens.

Six million young people participate in YMCA programs every year. These programs encourage children and teens to grow strong and secure in who they are and to develop positive values. YMCAs regard volunteer service as integral to YMCA youth programs and have developed models that demonstrate the value of involving young people in community service.

YMCA believe that government should support initiatives that strengthen the service ethic and challenge all to respond, collectively as well as individually, to the social and environmental needs of their communities. These initiatives should be locally based and should offer a wide range of opportunity for involvement. The volunteer experience should promote individual growth and enhance community life. More specifically, YMCAs believe that government community service initiatives should reflect the following principles:

Training and Supervision: All youth community service programs should recognize the need for supervision and training, both for sponsoring organizations and the volunteers. Successful programs require a commitment to paying qualified and experienced staff members to work with volunteers.

Community-based: All programs should be developed or adapted by the community in response to needs it has identified. This approach brings about meaningful volunteer experience that produces results that are more easily measured at the local level. Examples of successful models should be collected and made available to other communities.

Involve Existing Programs: Government community service programs should not duplicate the many successful programs operated by community-based organizations. New delivery systems should not be created until existing programs are given a fair chance to meet the challenge of a government initiative. The nonprofit community should be considered in these decisions.

Multigenerational: People of all ages should be encouraged to volunteer. Also, in order to respond to the needs of people of all ages, from prekindergarteners to senior citizens, community service initiatives will need to include varied program designs and models.

Economic and Cultural Diversity: Youth service programs should involve people from different economic, social, and ethnic backgrounds. Volunteers should have the opportunity to learn and work with people of other cultures and with different life experiences.

Support for Volunteers: Programs should provide support to participants. This may include training and education, career counseling, and, when appropriate, reimbursement for out-of-pocket expenses.

Career and Vocational Training: Service offers young people important developmental experiences. Full-time service programs are a key element of a youth employment strategy.

Job Protection: Government initiatives should not be viewed as a means of developing a low-cost labor force. Instead, they should be viewed as ways of improving our communities and the service providers themselves.

Private/Public Partnerships: The private sector is making a commitment to youth service activities through contributions to local organizations and programs. Government initiatives should ensure that private funds are not diverted from these local programs. Instead, government policymakers should recognize that an expanded effort will mean an increased financial commitment by both the private and public sectors.

Approved by the YMCA National Board, March 1991.

Mr. MCINTOSH. Thank you for joining us today, Ms. VanPelt.

Let me begin the questioning with Mr. Randolph. You had mentioned in your statement that you thought it was important, to continue the mission of your charity, to be independent of activities engaged in lobbying. Do you see a danger for groups that are organized to help our communities if they move away from actually providing assistance and move toward lobbying the Government to provide that assistance?

Mr. RANDOLPH. I think there is a chance, Mr. Chairman, that one could be forced, through the absolute pursuit of an agenda with pending legislation, to steer away from the mission at hand, especially when that mission needs—the total focus of the mission

should be in the clients' best interest. It could happen, if there are no guarding factors, whether they are internal or external.

Mr. MCINTOSH. Let me thank you for addressing the questions from the committee that we had provided to all of the witnesses in advance. On that, you had indicated that you received some Federal grant money, as a recipient through the city of Indianapolis, from their Department of Youth and Family Services, for a fairly small amount of your budget each year.

So, therefore, you would be, technically, covered by our legislation. Yet, in your testimony, you said you supported it, and I take it it's because, in the rest of your responses, you indicate you don't engage in lobbying activities as a charitable group.

Mr. RANDOLPH. No, sir, I don't.

Mr. MCINTOSH. Do you feel you are able to accomplish your mission, in terms of the St. Florian Center, without having to be an advocate group?

Mr. RANDOLPH. For my mission, there is no need to lobby. I'm in the business and our organization is in the business of developing leadership within our youth, particularly in the inner-city. I do not need to lobby to do that. I need to concentrate on the mission at hand.

Mr. MCINTOSH. Did you know that it's roughly 93 percent of the organizations that are organized as 501(c)(3)'s, charitable groups, don't receive Federal grant assistance, and therefore would not be covered by this bill?

Mr. RANDOLPH. I wasn't made aware of that.

Mr. MCINTOSH. So we're talking about 7 percent. You are in that 7 percent, and I appreciate your perspective that you don't need to be able to spend more than 5 percent of your money lobbying in order to accomplish your mission, which sounds like a very honorable and worthwhile one.

Let me now ask Ms. VanPelt a couple questions about your testimony. First of all, do you agree that, under the 5 percent formula in our bill, that the YMCA would be able to spend approximately $1.2 million each year in lobbying or advocacy efforts?

Ms. VANPELT. If current law were repealed, because right now there is a cap of $1 million.

Mr. MCINTOSH. Oh, I see. So under the current IRS limits, you would have an even lower threshold than our legislation.

Ms. VANPELT. Yes. And I'm not sure which supersedes.

Mr. MCINTOSH. Although I understand their definition of "advocacy" is more limited, so you may be able to spend some additional moneys on advocating to the executive branch, the White House staff, which I think the IRS Code does not cover in their limits.

Ms. VANPELT. Your definition is much broader.

Mr. MCINTOSH. So there would be that $1.2 million. Do you anticipate, at any time, that the YMCA would want to spend more than $1.2 million of its private resources in advocacy efforts?

Ms. VANPELT. No, sir, I don't, but I'm not primarily concerned about the YMCA of the USA meeting the cap. My concern is the small YMCA's across the country who will very easily make that cap.

Mr. MCINTOSH. Explain to me how that's likely to happen. If you could, give me an example of a local YMCA that meets that cap?

Ms. VANPELT. Certainly. We have many small YMCA's in this country who have budgets of under $1 million, many with budgets under $500,000. They are very active in their communities. As you might guess, they are small communities, and they do a great deal of the collaborative type of activities that I was talking about, especially when I referenced the Delaware YMCA.

That is not an uncommon activity. All that would have to be counted, under the definition of your bill, as lobbying, and it would be very easy for them to hit a 5-percent cap, based on their budget size.

Mr. MCINTOSH. So a YMCA that maybe has a budget of $500,000, and the community feels it needs to spend more than $25,000 in advocacy at the local level.

Ms. VANPELT. Well, certainly the way you describe "advocacy," yes, sir.

Mr. MCINTOSH. Wouldn't that $25,000 be spent better in providing services, sort of youth programs and gyms, pools, things that we had at our YMCA?

Ms. VANPELT. Well, yes, sir, but you're not counting direct dollars; you're counting time spent. So what we are doing is prorating people's time as they spend at meetings, people's time as they spend talking, people's time as they sit on councils and advisory councils.

Mr. MCINTOSH. And I think that may be exactly the point that Mr. Randolph was making, is that he thinks the mission of helping people can be better served doing things than spending it in sessions with Government bodies.

Ms. VANPELT. Well, if I may say, sir, I think that one of the things that makes communities operate is the partnerships that we have with Government, as the service provider. So when we are approached by the school system, or approached by the court system or the judges, and asked to deliver services, we do have to spend some time talking with them about what is the most comprehensive and efficient way to deliver programs to those kids.

Mr. MCINTOSH. But more than 5 percent? That's a lot of overhead.

Ms. VANPELT. Well, I think that in a small community, again, as your definition is so broad, that normal activities of give-and-take in a community, planning and preparation, are now considered advocacy.

Mr. MCINTOSH. Actually, I think planning and preparation would not be. It would be advocating that they give you money.

Ms. VANPELT. Well, I don't believe that your bill is that specific.

Mr. MCINTOSH. We can look at the language and come back. I will reserve some other questions after my colleagues have had a chance to ask them.

Mr. Spratt.

Mr. SPRATT. It's kind of late. Let me just ask you one particular question, Ms. VanPelt. You indicated in your testimony that there's a letter attached to your testimony signed by the executive officers of 22 of this country's leading charities. My testimony doesn't have that letter attached.

Ms. VANPELT. Oh, I'm sorry, sir. We will be sure to get you a copy of that.

Mr. SPRATT. Do you have a copy of it handy? Could you read off the 22 charities?

Ms. VANPELT. I'm sorry, my copy appears to be missing also. But I know that they are groups like the Boys and Girls Clubs, the Boy Scouts, the Girl Scouts. Gordon Raley, who is the executive director of the National Collaboration for Youth is here, and he would be happy to supply the names.

Mr. SPRATT. Mr. Chairman, if we could have the consent of the committee to hold open the record for the receipt of that letter, I would appreciate it.

Mr. MCINTOSH. Certainly. I think I saw it at some point, so it should be in our possession. We will make sure it is included in the record.

Mr. SPRATT. Fine. Thank you very much.

What kinds of political advocacy—would you go over that again—does the Y engage in? We don't tend to think of the Y as being a political advocate for many things, until you start to think about the breadth of definition of "political advocacy" under this bill.

Ms. VAN PELT. Mr. Spratt, what we do at the YMCA is, on the national level, we come and talk to you about child care, substance abuse, youth health and fitness, youth service, juvenile justice crime and gangs. At the local level, our YMCA's are very concerned about quality child care standards. They are very concerned about criminal background checks. They are very concerned about the incidence of murder and violence with youth. Those are all the things that YMCA's come and talk about.

Mr. SPRATT. These, interestingly enough, are all things that concern us. So, if we want to go to organizations like yours, who are in communities across this country and in contact with the problems that are really troubling this country, we're going to be restricted in our access to you or your access to us, if we want to find out if crime prevention programs can be fashioned that will work, or child care programs can be established that will afford welfare mothers security, if they can find jobs, the countless things you do.

I think the point was well made in your testimony, if we don't have agencies like yours and a free interchange of information, then we are simply going to restrict ourselves from the kind of information we need to make sensible legislation.

I think you made an eloquent defense of your position and a very measured but still eloquent criticism of the bill before us. I thank you for coming.

Ms. VANPELT. Thank you very much.

Mr. SPRATT. Mr. Randolph, I thank you for your testimony, also. I lived in Indianapolis for a while, on Arlington Road. From my short experience there, I'm sure the good that you do is very much needed in that city.

Mr. RANDOLPH. Thank you, Mr. Spratt.

Mr. MCINTOSH. Thank you, Mr. Spratt.

Mr. Ehrlich.

Mr. EHRLICH. Ms. VanPelt, you have been very eloquent. I want to get into a couple things that you've said, because I really believe you've put your thumb on the philosophical basis of this whole debate today. But before I do, let me ask you a couple things in followup to a few points the chairman made.

You don't mean to imply by your testimony that—and I tried to write some of your testimony down—that this proposal is really the first time the Federal Government placed restrictions on the use of Federal funds? I mean, you're a 501—you've made the (h) election; correct?

Ms. VANPELT. Certainly.

Mr. EHRLICH. And by that, you have limited yourself to $1 million; correct?

Ms. VANPELT. Certainly.

Mr. EHRLICH. Twenty-five percent grassroots; correct?

Ms. VANPELT. Yes.

Mr. EHRLICH. Ma'am, you also made a comment—I'm trying to interpret it in context with what the bill actually does—I believe you used the term "dramatically increases the range of activities that qualify as political advocacy."

As you know, I've gone over this bill a number of times. I found two specific expansions: one, lobbying of the executive branch. And I guess my question to you is, do you think that's kind of a no count when you lobby the executive branch, or "lobbying" only means lobbying the legislative branch?

Ms. VANPELT. I'm sorry. I'm not understanding your question, Mr. Congressman.

Mr. EHRLICH. Do you count lobbying as lobbying the President of the United States, a Governor, a county executive? When you go and advocate on behalf of a position, do you believe that is lobbying, when you do it with respect to an executive branch as compared to the legislative branch?

Ms. VANPELT. We provide information to anybody that asks, and we also provide information to anyone that has the ability to affect what we do. Now, whether or not we count it as lobbying, you're talking in a philosophical sense rather than a reporting sense?

Mr. EHRLICH. Yes, ma'am.

Ms. VANPELT. Well, I guess that we see that it is our duty to talk to people and inform them about how these things will affect the YMCA, regardless of where they sit and who they represent.

Mr. EHRLICH. No qualms with that statement. But the fact is, whether you're lobbying the executive or legislative branch, you are lobbying. And that certainly is one specific increase or at least the range of increase that this bill contemplates with respect to political advocacy.

The only other expansion I have been able to find in the bill is third-party lawsuits. As you know, our bill in no way limits your ability to sue anyone. I just don't think groups that take taxpayer money should be able to go out and hire lawyers with tax dollars to file suits on behalf of third parties, and we certainly limit that.

But those two specific examples are the only examples I've been able to find in our bill that correspond to your term "dramatic increase." Can you cite me any other examples?

Ms. VANPELT. Yes, sir. If I may also address the lawsuit provision. The YMCA certainly does not use tax dollars, in any case, to file lawsuits, third-party or otherwise. We use our own funds. Actually, we are very sensitive to that, because across the country there are organizations that regularly challenge the tax-exempt status of

YMCA's. And it's not Government that brings that. Oftentimes it's another party, and we have to defend ourselves.

In many cases, it is in our interest to file an amicus curiae brief, which would be not permitted under this. So you would be considerably restricting our right to defend ourselves and our tax-exempt status in this current climate.

Mr. MCINTOSH. Would the gentleman yield?

Mr. EHRLICH. Yes, I will.

Mr. MCINTOSH. It's my understanding that an amicus curiae brief is when you don't have any self-interest in the case; you're a friend of the court just advocating a position.

Mr. EHRLICH. And defending—if the chairman would yield—defending your tax exempt status is specifically exempted under the bill; correct?

Ms. VANPELT. It is my understanding, if it is brought by a Government entity, defending our tax exempt status. However, I can't argue these fine legal points with you. I am not a lawyer.

Mr. EHRLICH. OK. Well, that leads me into my second question, because it's more philosophical in nature. I really read your testimony, and you have been able to inform me about what the YMCA does these days. And I see, just from your report, from your 1994 tax return, and I quote, you "continue to mobilize aggressive advocacy efforts to enact youth development block grants."

Public policy took an active role in task forces sponsored by the Independent Sector that worked on Federal tax issues, I read from your testimony. You support Government policy with respect to local initiatives that reduce hand gun accessibility, Government policy that supports public education campaigns, that explain the cost-effectiveness of offering community-based youth development programs, and on and on and on.

I go back to my local "Y" in Towson, MD, and I wonder, if I walked in there, and I have, and I have lots of friends that belong to that organization, if I walked in there and asked the average guy at the nautilus machine if they knew that the YMCA actually was much more than I think the average person thought it was—and that is not to denigrate what you do.

Everything you've discussed, everything in this report is wonderful. As my colleague from South Carolina said, it certainly impacts on a lot of the issues we talk about in state legislatures and in this Congress. But I believe the point the chairman made, and the point that we continually harp on, and the point the gentleman made as well, the real philosophical basis behind this debate is, we're trying to return organizations in our society to a sense of mission, to actually doing things in the community to help people, rather than becoming advocates.

I understand you have a different position. You've been very eloquent in expressing that position. But I really think your testimony has touched on the real foundation of this debate. And I see my light is red, but you can certainly comment on it.

Ms. VANPELT. Well, my comment, Congressman, is that that is exactly what YMCA's are doing. The reason that we advocate those issues is because we do a national survey of YMCA's and ask them what they are dealing with and what they would like to see us ad-

vocate on at the national level, what it is they would like for us to speak for them about.

These are issues that they are dealing with, that come through the doors of the YMCA every single day. So they come back to us with the survey and say, "These are the issues that are the top priorities for us, that we find every single day are problems. If you can help us, coordinate at a national level to help, whatever you can do to address these problems while we do it at the local level, then help us this way." And that's how we come to those activities that you have before you.

Mr. EHRLICH. If I could have an additional 30 seconds from the chairman.

I believe your comment in answer to Mr. Spratt's question was, you view it as a public-private partnership.

Ms. VANPELT. Yes, sir.

Mr. EHRLICH. And that really is why we're here today and where that line should be drawn. I thank you for your testimony.

Ms. VANPELT. Thank you.

Mr. MCINTOSH. Thank you very much, Mr. Ehrlich.

Ms. Slaughter.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

I'm a little disturbed by the last question to Ms. VanPelt, because we're not holding these hearings today as to whether any member of this panel or any Member of Congress objects to the things you're doing with your own money; isn't that correct? It's the Federal money you're worried about.

Mr. MCINTOSH. We're also very worried—would the gentlelady yield?

Ms. SLAUGHTER. About what their philosophy is and what they do with their own money.

Mr. MCINTOSH. Would the gentlelady yield?

Ms. SLAUGHTER. I will.

Mr. MCINTOSH. Mr. Ehrlich.

Ms. SLAUGHTER. Would you like to answer that, Mr. Ehrlich?

Mr. EHRLICH. Was that directed to me?

Ms. SLAUGHTER. Yes.

Mr. EHRLICH. Yes, ma'am. Many of these groups enjoy a special status in society we call nonprofits. That's something that we have through the tax code, a benefit that we have chosen to confer upon a variety of groups in this country. Additionally, as you well know, money is fungible.

Ms. SLAUGHTER. That's fine, Mr. Ehrlich.

Mr. EHRLICH. Can I answer? Can I finish?

Ms. SLAUGHTER. Well, no, you have answered what I wanted to hear, frankly.

Mr. EHRLICH. OK.

Ms. SLAUGHTER. I think what I'm hearing you say is that you really don't want any nonprofit; is that correct?

Mr. EHRLICH. Ma'am, I've been in Congress only 8 months, but I'm fascinated.

Ms. SLAUGHTER. Or you don't mind a nonprofit that agrees with you?

Mr. EHRLICH. Can I answer?

Ms. SLAUGHTER. Sure. Go ahead.

Mr. EHRLICH. Well, why don't you finish, since you're more interested in making a speech. But I'll have my time later.

Ms. SLAUGHTER. No, I'm not, but I am interested in asking Mr. Randolph a question, and I would like to get to that, because I know he has to leave.

Mr. EHRLICH. You certainly can. It's your time.

Ms. SLAUGHTER. Mr. Randolph, you don't take Federal money?

Mr. RANDOLPH. Yes, I do, ma'am.

Ms. SLAUGHTER. You do take Federal money?

Mr. RANDOLPH. Yes, ma'am.

Ms. SLAUGHTER. A couple things that you had said here kind of struck me. One is, "It's difficult to see how a client benefits from a dollar he never sees." Are you referring to the Federal money that comes in to your agency?

Mr. RANDOLPH. Yes, ma'am.

Ms. SLAUGHTER. Your clients do not benefit from that money?

Mr. RANDOLPH. If the money does not get to the client, and passes and goes right back to Washington to lobby, they do not see the direct benefit. Not my clients.

Ms. SLAUGHTER. Is that what you do with your money?

Mr. RANDOLPH. No, ma'am.

Ms. SLAUGHTER. Well, you're talking about all this money flowing back to Washington. You do understand. Obviously, you're operating a nonprofit agency; you know what the IRS regulations are; correct?

Mr. RANDOLPH. Yes, ma'am.

Ms. SLAUGHTER. And you feel that those are pretty restrictive, so that people can't spend unlimited amounts of money, as you point out, millions of dollars coming back down here to lobby. Do you have an example of that?

Mr. RANDOLPH. I'm not an attorney, ma'am. I can only speak based on my opinion, as I stated in my testimony, and my observations. The perception is—and perception, as you probably know, madam, is 90 percent of reality.

Ms. SLAUGHTER. Not to me.

Mr. RANDOLPH. The perception is that most of these dollars, through lobbying, end up back into Washington, without the client getting direct benefit.

Ms. SLAUGHTER. But you know that's against the law? You do understand that's against the law?

Mr. RANDOLPH. Yes. And there are plenty of things that are against the law that are still perpetrated.

Ms. SLAUGHTER. Do you also understand that there has not been a single complaint filed, to the IRS or anybody else, that any nonprofit agency ever violated that law?

Mr. RANDOLPH. I'll have to take your word for it, ma'am.

Mr. MCINTOSH. Would the gentlelady yield?

Ms. SLAUGHTER. No, I'd like to ask more.

Mr. RANDOLPH. Go ahead.

Ms. SLAUGHTER. Tell me, you do know that?

Mr. MCINTOSH. Well, let me make a factual point.

Ms. SLAUGHTER. No, if I could, Mr. McIntosh.

Because if your perception is 90 percent of your reality, and if I tell you a reality, will you buy that; will you believe that? Do you

have anything to refute what we're saying here, that nonprofit agencies are not lobbying with Federal money, except your perception?

Mr. RANDOLPH. Except the perceptions and some of the data that's been presented to me today, and based on my testimony that the perception is, there's a lot of money being flowed back to Washington through the lobbying system.

Ms. SLAUGHTER. Is it based on this?

Mr. RANDOLPH. Well, based on this, based on that.

Ms. SLAUGHTER. If this is where you got your perception, Mr. Randolph, this is a very suspect piece of paper.

Mr. RANDOLPH. I've not read that, ma'am. I don't have that piece of paper before me, so I can't comment on it.

Ms. SLAUGHTER. What were you given today that I don't have? I guess that's not a question you can answer, because you don't know what I've got up here. But I have not seen anything that's ever crossed my desk or my office, in the 9 years I've served in Congress, that nonprofit agencies were violating that law.

Mr. MCINTOSH. Ms. Slaughter.

Ms. SLAUGHTER. If you will give me the time.

Mr. MCINTOSH. Let me send to you some of the transcripts from our earlier hearings where there was a case in point where someone did violate that. They almost had to pay back the grant money, but the agency never asked for it. So we do have a factual record.

Ms. SLAUGHTER. A single case?

Mr. MCINTOSH. That's one that we know about it. What we need to do is find out about the National Council of Senior Citizens and other groups, to see if there's a similar problem.

Ms. SLAUGHTER. Well, Mr. Randolph, I'd sure like to give you some of my perceptions on what's going on here. Maybe I could write you a letter. I know you have to get back to Indianapolis.

Ms. VanPelt, if I could get back to you for a moment, your testimony, as I heard it, started off with the fact that these reporting requirements on this awful questionnaire you would have to fill out would be a major burden on your agency.

Ms. VANPELT. Yes, ma'am.

Ms. SLAUGHTER. Did you say that you had a 148 vendors?

Ms. VANPELT. We have 140,000 vendors nationwide. That's a conservative estimate. We have close to 8,000 collaborations and partnerships.

Ms. SLAUGHTER. If this law passes, you've got to contact every one of them and ask them all these questions, in duplicate.

Ms. VANPELT. Yes, ma'am. We have to contact them and ask them if they spend 15 percent of their company's budget on advocacy expenditures.

Ms. SLAUGHTER. Well, I submit to this committee that that's none of our business. I don't know if we're trying to hold a grand jury hearing, or something, but for Ms. VanPelt, as head of YMCA, to have to go to everybody who sells her something and demand to know how much of their business they spend on whatever they may choose for themselves, I find is one of the strangest pieces of legislation I've ever seen.

I'm absolutely flummoxed by it, Mr. McIntosh.

Mr. MCINTOSH. I'm sorry, Ms. Slaughter.

Ms. SLAUGHTER. That's all right. I see my time has expired.

Mr. MCINTOSH. Let me now turn to Mr. Gutknecht.

Let me ask, real quickly, Mr. Randolph, you had said you had a flight this evening, what time is your flight?

Mr. RANDOLPH. 7:10.

Mr. MCINTOSH. If you could stay with us a few more minutes, I think we'll make it through one round of questions.

Mr. Gutknecht.

Mr. GUTKNECHT. Mr. Chairman, I would yield 2 minutes to my colleague from Maryland to followup on this incredible report that's going to be required.

Mr. EHRLICH. Thank you.

Ma'am, I just want to ask you a question. I'm reading from Section 602 of the bill.

Ms. VANPELT. Yes.

Mr. EHRLICH. These are the reporting requirements verbatim:

A statement that the grantee did not engage in political advocacy; two, a statement that the grantee did engage in political advocacy, setting forth each grant, the identification number, the amount of the grant, a brief description of the grant; the identity of each Government entity awarding or administering the grant; the name and grantee identification of each entity to whom the grant was made; a brief description of the grantee's advocacy; and a good faith estimate of the grantee's prohibited political advocacy threshold.

Now, is there something that I don't know, or are you telling me that is an onerous burden?

Ms. VANPELT. Well, if I may compare it. When you fill out your income tax report every year, especially if you file the short form, it's usually only one page; if you file a longer one, it's a smaller one. However, the backup documents that go along with it are considerably more than what you turn in to the IRS.

I would submit that the backup documents, especially the one that says that we have to outline the type of activity that we have, and if I can go back to your original question about how the activity is expanded, Mr. Ehrlich, local YMCA's would now have to maintain records regarding their local contacts with school boards, recreation departments, city councils, county councils, and mayors, which they don't now have to do. So all of that would have to be counted and tallied before it could be put on that piece of paper.

Mr. EHRLICH. Is it your testimony that you believe this is an onerous burden because this information is not readily available?

Ms. VANPELT. It is an onerous burden because of the expense that it would require and also because of the different ways that it has to be reported and accounted. And yes, sir, the amount of time that we would have to spend tracking down all of the things that we do that now count as advocacy under that would be onerous.

Mr. EHRLICH. Thank you, ma'am.

Mr. MCINTOSH. The time of the gentleman has expired. It's now 3 minutes for Mr. Gutknecht.

Mr. GUTKNECHT. Well, Mr. Chairman, I don't have a whole lot of questions. I want to thank both the witnesses for coming forward.

It's interesting, though, I mean, it's like the two sides look at this thing, and one says—maybe I should ask this, Ms. VanPelt, is it

your position that there is not a problem and that Congress really shouldn't even be looking at this?

Ms. VANPELT. Yes, sir, I think that current law is sufficient, that if there is a problem and that if a problem is identified, if there is a problem under current law, then we need enforcement of current law. I think that this is overbroad.

Mr. GUTKNECHT. And would it be your position, then, based on—you sat and listened to the testimony and heard about this one particular group that had received over 96 percent of its money from the Federal Government, and it turned around and engaged in what at least I would say was pretty obvious political activity, would you say that that was a violation of the current law or not?

Ms. VANPELT. I'm sorry, sir, I'm not familiar enough with the case or with current law.

Mr. GUTKNECHT. Well, you sat—you heard everything we just heard.

Ms. VANPELT. Yes, sir, but I have no comment to make on that.

Mr. GUTKNECHT. So you don't have an opinion?

Ms. VANPELT. I'm not qualified, especially on the record, to comment on that.

Mr. GUTKNECHT. I find that incredible. I mean, you do feel qualified to offer an opinion on the bill.

Ms. VANPELT. Yes, sir. My testimony is very deliberate about the effect that this proposed bill will have on the YMCA. I cannot comment on the National Council of Senior Citizens and how they operate.

Mr. GUTKNECHT. Well, it really is about the current state of the law. I mean, what we're really talking about, is the law today adequate or is it not adequate?

Ms. VANPELT. Well, sir, I feel, in the case of the YMCA, that the law is adequate.

Mr. GUTKNECHT. So you think the law is adequate.

Ms. VANPELT. In the case of the YMCA, yes. And I can speak on behalf of the YMCA.

Mr. GUTKNECHT. But is there some danger that, if there's a logical progression, and your—and I agree with Mr. Ehrlich, I mean, I'm surprised that so many of these groups are so actively involved in what you would describe as political advocacy today. Isn't there some danger that 5 years down the road, 10 years down the road, you're going to be in the same situation?

Ms. VANPELT. I don't think so, sir.

Mr. GUTKNECHT. So you think the law is adequate as it is today?

Ms. VANPELT. Yes, sir.

Mr. GUTKNECHT. Thank you very much.

Mr. MCINTOSH. Thank you, Mr. Gutknecht.

I think everyone has had a chance for a round of questions. I have another couple questions for Ms. VanPelt. We can go through another round if other members do, as well.

Ms. SLAUGHTER. Mr. Chairman, I do have a request. Was it Mr. Ehrlich or somebody referred to testimony previously of someone who had broken the law, I don't have any knowledge of that, and if somebody on the committee staff would please give me that, I would be much appreciative.

Mr. MCINTOSH. Yes, we can do that, definitely. It was in one of the hearings in July, and we will be able to get that.

Ms. SLAUGHTER. Was it a case of someone who had actually done it or hearsay?

Mr. MCINTOSH. It was actually a case where a Federal grant was used to set up a conference to teach the participants how to lobby, I think it was State government, it may have been Federal Government, on different provisions relating to restrictions on drinking.

Ms. SLAUGHTER. I would like to see that. Thank you.

Mr. MCINTOSH. We'll get you that information.

Ms. SLAUGHTER. Mothers Against Drunk Driving?

Mr. MCINTOSH. I don't believe they were the grant recipient.

Ms. SLAUGHTER. They don't get Federal money, do they? I don't know that they even get any.

Mr. MCINTOSH. Ms. Slaughter, that was not the recipient, but it was another group that was involved in this.

Let me ask Ms. VanPelt, real quickly, Mr. Gutknecht had asked—and I understand you don't want to comment on another organization—but is it at all troubling to you that there are organizations that receive 95 percent of their money from the Federal Government, and yet they have a political action committee set up that they say they use their private sector funds to fund?

Ms. VANPELT. The issue that I am concerned about with this legislation is that primarily we are dealing with how a private organization uses its private funds. That is my concern.

Mr. MCINTOSH. Even when those private funds are such a small percentage of what they are all about.

Ms. VANPELT. I think that an organization has a right to use its private funds as its board of directors sees fit.

Mr. MCINTOSH. Well, let me ask you another couple questions in that line. Do you disclose to your private sector donors, especially at the local level, that you want to spend more than 5 percent of the funds on lobbying or advocacy activities?

Ms. VANPELT. At the local level, the YMCA's make their own decisions, but most YMCA's have local political action committees or political advocacy committees that specifically address the things that I talked about in the beginning of my oral testimony.

Mr. MCINTOSH. So, as a general practice, they are encouraged to disclose to donors that that's one of the programs that their money will be funding?

Ms. VANPELT. I have not run a YMCA, and I have no YMCA director here to ask, but I would assume that the board of directors knows what's going on at the YMCA and approves of it; otherwise, they wouldn't be a member of the board.

Mr. MCINTOSH. Do you think it's appropriate for donors who may not be on the board to receive that information?

Ms. VANPELT. Well, I think that YMCA's—have you ever belonged to a YMCA, Mr. McIntosh?

Mr. MCINTOSH. As a member, yes.

Ms. VANPELT. OK. And so you do know the amount of mailings that you get from your YMCA. As a matter of fact, probably long after you left membership you continued to receive mailings. I think that, if anything, we probably give our donors more information than they need. And it's probably not stated so directly, but

I think that indirectly they get all the information they need about the full range of activities that the Y carries on.

Mr. MCINTOSH. Let me ask you about some of the Federal grants that the Y receives. Are they primarily in the area of child care, providing child care services?

Ms. VANPELT. We receive several types of Federal—we have responded to several requests for proposals and also receive different types of Federal moneys through our programs through different ways. Primarily, the biggest source is through the child care and development block grant funds that subsidize child care for working poor parents. We get those through the voucher system, but it's the parents that make the decision to use the Y.

Mr. MCINTOSH. I'm familiar with that legislation, which I think the voucher works pretty well to give the parents choice. But that's primarily where the Federal grant money that you're receiving is coming into the YMCA.

Ms. VANPELT. Well, that along with juvenile justice and delinquency prevention money, HUD substance abuse prevention grants, help with immunization from the Centers for Disease Control, those types of things.

Mr. MCINTOSH. OK.

Ms. VANPELT. Very program-related.

Mr. MCINTOSH. And we discussed earlier that, in all likelihood, the Y would not meet the 5-percent threshold on funds spent for advocacy, at the national level.

Ms. VANPELT. At the national level.

Mr. MCINTOSH. Within that 5 percent, though, are the moneys that you're spending for advocacy related to those grant programs? Do they tend to be in favor of continuing those programs that the YMCA receives money for?

Ms. VANPELT. Well, I think, when we talk about those types of things, it's not a black-and-white issue, "Yes, we need more money," and that's the end of our position. What we really advocate for is how the program is working and whether the program meets the needs of its recipients, and that's mostly the type of information that we give. If you were to read any of our alerts, you would see that they are directed at our national public policy position papers, and we have only taken positions that are in accord with those positions.

Mr. MCINTOSH. And one of the things I noticed in the material you had sent to us, it said that they have affirmed the YMCA's leadership role in advocating for high-quality, affordable school-age child care before the administration, Congress, and the ABC coalition.

Ms. VANPELT. Yes, sir.

Mr. MCINTOSH. So, historically, has the YMCA been active in promoting legislation to provide for child care, the voucher system that you had described earlier?

Ms. VANPELT. Well, if the question is, sir, does the YMCA promote bigger Government, you need to be aware that YMCA's boards of directors are probably 90-percent conservative Republicans. One of their main concerns, when we began talking about advocacy at the YMCA, was that in no way would we advocate for larger Government.

Mr. MCINTOSH. I understand that. And I think your spending is well within the 5 percent, so I don't think our bill would change the level of funds you could commit to it. But was it directed at that program, historically, to encourage the child care bill?

Ms. VANPELT. To encourage?

Mr. MCINTOSH. Congress and the White House to pass and enact into law the child care program.

Ms. VANPELT. Well, we were very active in the ABC bill, yes, sir. And we were concerned, if Congress was going to pass a bill, that it have standards in it that were suitable for us and protected the children.

Mr. MCINTOSH. I keep repeating this, because I want to make sure that I'm not saying we're addressing this in the legislation, that you're well within the 5-percent threshold. But don't you see that there's the sense out there where the taxpayer could be nervous if you're receiving these Federal grant moneys and yet set up part of your private funds to advocate that these programs be set up? I mean, there seems almost like an inherent conflict of interest that would occur.

Ms. VANPELT. Well, I know that our volunteers and our boards of directors are very concerned about the quality of the child care, because they are very concerned about the children that come to YMCA's at all levels. So they are very concerned that Government also be concerned about children and that Government have the best input from people who know best about what child care programs need and what children need.

Mr. MCINTOSH. And I have to share with you, I have been very mild in the way I put the conflict of interest; other people have put it, we'd rather see them spend their private money taking care of children rather than trying to get the Government to. And that may go to what Mr. Ehrlich had said was a difference in philosophy.

Ms. VANPELT. Well, Mr. McIntosh, most of the YMCA's money is not the Government provision of services; it is our own. As a matter of fact, we spend a substantial amount of our own money underwriting parents who can't afford to put their children in child care at the full price.

Mr. MCINTOSH. And, as I say, that's why I think the YMCA wouldn't be affected by our bill, in terms of the amount of advocacy you do, because you do spend the vast majority of your private money in that way. If you put in the list of good guys and bad guys in the world, I would put you definitely in the list of good guys.

Ms. VANPELT. Thank you, sir.

Mr. MCINTOSH. I wanted to make that clear in that question but point out to you how that conflict of interest is something that the taxpayers are nervous about in today's world.

Ms. VANPELT. Well, I think the taxpayers that belong to the YMCA are concerned that where the Government does intrude on YMCA in partnership that the standards be high.

Mr. MCINTOSH. My time has expired.

Ms. SLAUGHTER. Mr. Chairman, could I ask Ms. VanPelt one question.

I know we've heard the dialog between the two of you that you would be well within the amount of money for lobbying, so this bill, the 5 percent would not trouble you; correct?

Ms. VANPELT. Yes, ma'am.

Ms. SLAUGHTER. Now, as the bill is written, Ms. VanPelt, you won't know that unless you interrogate every one of the people you do business with; right?

Ms. VANPELT. Yes.

Ms. SLAUGHTER. Because you've got to make sure how much of their own money they spend over the 15 percent.

Ms. VANPELT. That's right.

Ms. SLAUGHTER. So you've got to do the questionnaire. You've got to interrogate, in your case, over 140,000 vendors and add that all up together to make sure that you're still within your 5 percent.

Ms. VANPELT. That's correct.

Mr. MCINTOSH. Ms. Slaughter, no further questions?

Ms. SLAUGHTER. Yes.

Mr. MCINTOSH. Mr. Ehrlich.

Mr. EHRLICH. Ma'am, I'm interested in your testimony because you're out there, real life, doing this stuff. And I appreciate your consideration today, I really do. I'm just intrigued by your comment, in answer to my question with respect to the burden placed on "Y's" out there to meet the new requirements, and I keep hearing the term "onerous," et cetera.

And you specifically cited—and correct me if I'm wrong—local government contacts, councils, et cetera. That struck something in my mind. I checked, under the (h) regulations, and you've taken the (h) election, you are already covered by that; you have to report that. And I'll read from the IRS Code: "The term 'legislation' includes action with respect to acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure."

So we keep going back to the level of burden placed upon organizations such as yours. I'm just really trying to quantify it, because I understand the charge is out there, but I'm trying to get straight in my own mind how real the charges are and how much additional burden would be placed on you by this particular piece of legislation.

Ms. VANPELT. Well, first of all, Mr. Ehrlich, right now there is no reporting requirement similar to yours in the 501(h) election. It's a good faith estimate, as I understand, and we do end up reporting it. So it's not a specific data-gathering as would be required under your amendment. In addition, we still have to add all the school superintendents and all the other people, the lower local elected officials. So it is an expansion.

Mr. EHRLICH. I'll go with your answer, but I don't think it's a significant one.

Thank you.

Mr. MCINTOSH. Thank you, Mr. Ehrlich.

Mr. Spratt, do you have any questions?

Mr. SPRATT. No.

Mr. MCINTOSH. No questions. Seeing no further questions, thank you for staying with us all day, Ms. VanPelt. I appreciate that.

Ms. VANPELT. Thank you.

Mr. MCINTOSH. I'm going to ask unanimous consent to keep the record open for 5 days. If any members have additional questions, we will transmit them to you and put those answers into the record. Seeing no objection, the record will be held open.

Let us now move to our next panel, if I could call forward the two witnesses who will be participating there. The first witness is Mr. Gary Bass, who is the director of OMB Watch. Joining him also is Ms. Nan Aron, and I want to make sure I get the title correct, president of the Alliance for Justice. I guess that's on the letterhead.

Ms. ARON. Which letterhead, sir?

Mr. MCINTOSH. The one I have here in front of me.

We appreciate both of you coming. As I think everyone knows, we don't agree on this legislation, but I want to hear your comments and testimony and be able to have an exchange with you.

Mr. EHRLICH. Mr. Chairman, could I interrupt. Point of personal privilege, with due respect to the witnesses.

I'm really interested in what you have to say, but I'm also expected in northern Baltimore County in about an hour and a half. I will read what you hand out, and I promise you I will be in contact. I really am interested in what you have to say and your concerns.

I thank the chair for his indulgence.

Mr. MCINTOSH. Thank you, Mr. Ehrlich.

Mr. Bass, if you could please proceed.

STATEMENTS OF GARY D. BASS, EXECUTIVE DIRECTOR, OMB WATCH; AND NAN ARON, PRESIDENT, ALLIANCE FOR JUSTICE

Mr. BASS. Well, in your list of good guys and bad guys, I hope we make the good guy list. I certainly have been trying to do my best to explain what the bill would do and ensure that you hear from others on what they think it would do.

Let me start by saying the one key issue—and I agree with Congressman Ehrlich on this—is that if a Federal grantee uses any Federal funds to lobby at the State or Federal level, as proscribed in Circular A–122, or if they use any Federal funds to attempt to influence the awarding of grants, contracts, or loans, either on the executive branch side or in Congress, as provided in the Byrd provision, that nonprofit or that entity should be severely prosecuted within the constraints of the provisions of those regulations.

As we all know, that means either repayment of the funds used, penalty fees, or debarment and suspension. To my knowledge, no Federal funds, either directly or indirectly, such as through overhead, are permitted for lobbying, and we have not heard of any systemic pattern of abuse. I would agree with Ms. VanPelt that, if there is a problem, the emphasis should be on enforcement. Let me also say that the current rules apply equally to all types of awards; that is, contractors, grantees, loan recipients, and so forth.

I'm also somewhat baffled, and so before you are some charts. Unfortunately, I don't have anyone here that can move the charts. So since you have them in front of you, that I just passed out, I would like to run through them, because I am somewhat perplexed.

I went to the Federal Assistance Award Data System to take a look at how much money we're talking about. And I found that, in fiscal 1994, there was actually $226.4 billion in grants, far in excess of what you describe as $39 billion or $40 billion. I also broke out in a chart how those grants go, both by type and by entity.

And in the next chart where there is a pie graph. I noted that 89 percent of the grants go to State and local governments or tribal governments. Another portion, about 6 percent, go to higher education facilities, some of which would be construed as State universities, and, as you said earlier today, Mr. Chairman, they would be excluded as State entities.

But including all of that, we're talking roughly about $24.5 billion, from what I can understand, is covered. If we take another look on the next chart and compare that $24.5 billion to contracts, we see a huge difference in scope, all the way from $196.4 billion for contracts to $24.5 billion that would be covered under the Istook amendment.

Really, in my mind, the issue comes down to, if there is any welfare for lobbyists, where is it? We have not heard about any evidence of Federal grantees using any Federal funds for lobbying. On the other hand, it's fascinating, if you look at this next chart, that undocumented payments to contractors from the Pentagon each year run, according to the General Accounting Office, between $500 million and $750 million per year.

Now, the total charitable lobbying per year, that is for the entire charitable sector, spends $72 million per year. That translates, by the way, into roughly $12,520 per charity. Frankly, I would like to sort of put this all in perspective. There has been a lot of innuendo that nonprofits, particularly charities, spend a lot of money on lobbying. Two Pentagon coffee pots, $15,200, is actually greater than the average expenditure of charities that lobby, $12,520 per year.

In my written testimony—I have traveled around the country talking to, oh, about 1,000 to 1,500 nonprofits now, in the last 2 weeks to describe the bill—in the testimony are a range of comments that they have placed and told me of problems the amendment raises. One of the key issues that has been repeatedly mentioned by other witnesses is this notion of partnership between the nonprofit community and Government, at the local, State, and Federal levels.

In Spokane, I heard about how the business community works with the nonprofit community and the local government to deal with housing redevelopment initiatives. Under that effort, their objective is to encourage the city and the state to do more on housing redevelopment. That would be advocacy under this and would be a problem.

In conclusion, in a world of Davids and Goliaths, if you will, this bill seriously sides with the Goliaths against the Davids of the nonprofit community and the millions of Americans represented by the nonprofit community.

Thank you.

[The prepared statement of Mr. Bass follows:]

PREPARED STATEMENT OF GARY D. BASS, PH.D., EXECUTIVE DIRECTOR, OMB WATCH

My testimony today will address concerns over provision authored by Reps. Ernest Istook (R–OK), David McIntosh (R–IN), and Robert Ehrlich (R–MD) that has been added to the Labor, Health and Human Services, Education and Related Agencies Appropriations Act for FY 1996 (H.R. 2127), herein referred to as the Istook amendment. In making my comments, I would like the Subcommittee to know that I am wearing several hats today. First, I am speaking as the Executive Director of OMB Watch, a nonprofit research and advocacy organization that has worked to protect the advocacy voice of the nonprofit sector since we were formed in 1983. Second, I am speaking as a co-chair of a national coalition, the Let America Speak Coalition (see Attachment A for a list of members), that strongly opposes the Istook amendment. And third, and perhaps most importantly with respect to the comments I am about to give here, I am speaking on behalf of hundreds of nonprofits across the country that we in the Let America Speak Coalition have met with over the last month about this issue. I know what they are thinking, what they fear about this legislation. It is their thoughts—more than my own—that I will pass on to you today.

On behalf of the Coalition, OMB Watch has helped set up briefings around the country to discuss the legislation and to better understand its impact on local services. We have met with more than 1,000 nonprofit organizations that provide a full range of services to meet human needs—from housing to health and human services—as well as organizations involved in postsecondary education, the delivery of cultural events (e.g., arts and music), and the protection of environmental concerns. In every city, these nonprofit organizations describe the relationship with government as a positive and productive partnership to provide critically important services. They uniformly state that the Istook amendment would undermine this partnership, cutting off government from information that helps shape and improve the quality of services in this country.

Let me highlight several of the major concerns they have with the Istook amendment.

(1) The Istook amendment is not about grant reform. The supporters of this proposal say it is about grant reform—that it will end "welfare for lobbyists." They imply that grant recipients are using grant money to pay for lobbying activity, and that this bill will put an end to the practice.

The nonprofit community across the county is somewhat shocked by this charge. They know that using federal grant money to lobby is already illegal, and penalties for violating the prohibition are severe.

OMB Circular A–122, Cost Principles for Nonprofit Organizations, prohibits the use of federal funds for lobbying on legislation at the state or federal level either directly or through grassroots initiatives. (This same language, by the way, applies to government contractors.) Furthermore, if a grantee wishes to receive reimbursement for indirect costs (e.g., overhead), the grantee must provide the government with additional information about all lobbying activities in order to assure that federal indirect cost dollars are not subsidizing such activities.

Penalties for violating Circular A–122 include having to repay all "associated" costs for lobbying, immediate suspension or termination of grants, and debarment from all future federal funds. Thus, for random violations, there already are powerful enforcement penalties.

Furthermore, recipients of federal grant contracts, and loans are prohibited from using federal funds from lobbying for more funding. In this case, lobbying includes attempts to influence Congress or the federal executive branch. Recipients of federal assistance must also disclose payments of non-federal dollars for such lobbying activities. Entities that failure to disclose these lobbying activities or improperly use of federal funds face severe penalties.

Finally, charitable nonprofit organizations organized under 501(c)(3) of the tax code have limits on the amount of private funds they can use for direct and grassroots lobbying, defined as attempts to influence legislation at the local, state or federal level. (See Attachment B for a comparison of these different lobbying restrictions.)

If the use of taxpayer money for lobbying was a problem, and there is no evidence that it is, the real answer would be to enforce existing law, not create a whole new set of laws with lots of additional red tape.

When pressed on this, the proposal's sponsors retreat to a concept known as "fungibility." According to this argument, nonprofits that receive grants to perform certain activities take their own money that was previously spent on the activity and spend it on lobbying. Thus, indirectly, federal grants subsidize lobbying.

This argument makes several big assumptions. It assumes that a nonprofit that receives a grant was already engaged in the grant-related activity using its own funds. In most instances this is not the case. As a result, it doesn't "free up" any money.

Second, it assumes that the nonprofit, once it receives a grant, would in fact decide to spend the money that it previously spent on service delivery on lobbying. The fact is that there is enormous demand for grant-related services. Each year, for example, the U.S. Conference of Mayors releases a report addressing the amount of unmet need. If there was ever any "extra" money, and there isn't, it goes into carrying out the mission of the organization—in most cases, service delivery.

Finally, many grants require nonprofits to match the grant with private funding. This puts more private dollars into the grant project—and these private dollars must then be treated as federal dollars. Accordingly, matching funds cannot be used for lobbying.

Most importantly, however, we need to remember that what we are talking about is what a nonprofit decides to do with its own, privately raised money. In no instance are federal funds being used to finance lobbying activity. This was repeatedly stressed by nonprofit groups who wonder why what they do with their own, privately raised money is any of the federal governments business.

(2) The definition of advocacy is too broad. Unfortunately, the authors of this bill did not define advocacy the way the IRS did in its limitations on 501(c)(3) nonprofit organizations. The definition in this proposal is much broader. It expands the definition of advocacy to include not just attempts to influence specific pieces of legislation, but virtually any attempt to influence public policy of any kind at any level of government—federal, state, and local.

It includes speaking with non-legislative agency personnel about non-legislative matters—things like talking to a local planning and zoning officer about a building variance or talking with a local school board member about education policy. Under this definition, in fact, just applying for a grant is advocacy (even if the application is turned down). It also includes influencing public policy through the judiciary (friend of court briefs, class action suits), in cases brought against any level of government, or though the press (press conferences, letters to the editor).

Nonprofits complain that the definition of advocacy is so broad in the Istook amendment that it will force them to stop many activities deemed important by the vast majority of people. For example, in Indiana, the state mental health association worked with the state agency administering mental health services to close down a residential institution. The process of nonprofits and the state working together became the basis of state legislation, which, in turn, became the model for other state legislation. By all accounts, the process was a positive and productive one. Yet the mental health association and other nonprofits involved in the process receive federal funds. Under the Istook amendment, these nonprofits would be engaging in "political advocacy".

Similarly, there are federal statutes that require advocacy, such as under the Protection and Advocacy Program authorized under the Developmental Disabilities Act. Under the Istook amendment, providing such advocacy would be prohibited, forcing grantees into a dilemma—provide the service as required by the law and lose the federal grant or do not provide the service in order to continue getting the federal money.

Many nonprofits also express concern that "political advocacy" also includes providing any resources (including in-kind) to any entity that uses 15% or more of its total expenditures for political advocacy. For grant recipients to know if they are providing such resources, they would have to ask every vendor and, perhaps, every employee about their advocacy activity.

Because nonprofit organizations rigorously follow law and regulation, they claim this will unfairly stop them from associating with those who engage in advocacy for fear that it will mean that thy are engaging in advocacy. And to be absolutely safe, they would not participate in local coalitions, panels, and non-governmental commissions, according to many groups.

(3) The proposal's limitations on private funds for advocacy is chilling. While this proposal's impact on federally funded lobbying will be negligible, since such activity is already illegal, it's new restrictions on privately funded lobbying will have a chilling effect.

This Istook amendment bars organizations from receiving federal grants if they spend more than 5% of their own, non-federal grant money on advocacy activity. Many nonprofit organizations fear they will exceed the 5% threshold because of the broad definition of advocacy. Because current accounting practices (for grant audits and IRS annual reports) have been established to monitor lobbying, not advocacy

activities, organizations that may be close to the line really do not know if they will exceed the new limit.

The real complaint from nonprofit organizations is not the cap, however. It is that the government would be conditioning their right to free speech based on whether they are a grant recipient. As the Congressional Research Service reported,[1] the Istook plan to limit the amount of private funds to be used for advocacy purposes raises serious constitutional issues. "Although Congress may clearly limit, regulate, or condition the use of the funds it appropriates, it has been a principle of federal constitutional law that the government may not condition the receipt of a public benefit upon the requirement of relinquishing one's protected First Amendment rights." The Istook plan, according to CRS, "may thus potentially encounter significant First Amendment difficulties."

(4) The reporting requirements are overly intrusive and burdensome. Nonprofit federal grantees must currently provide narrative and financial reports to granting agencies. They must follow generally accepted accounting procedures along with all procedures stipulated in OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations. They must conduct an audit under the standards established by OMB Circular A–133, Uniform Audit Requirements, which requires a "snapshot" of all organization activities—including those supported with private funds—at a single point in time. Finally, all charitable tax-exempt organizations must file an annual report to the IRS (Form 990) that includes information about lobbying, including how much was spent on direct and grassroots lobbying.

Under the Istook amendment, nonprofit federal grantees would also have to submit to the granting agency a new annual report due by December 31. For those that engage in advocacy activities, they will need to provide a "brief description" of their advocacy activities and how much money they spent on these activities. This information will be compiled by the granting agency, forwarded to the Census Bureau, and then posted on the Internet.

Nonprofit organizations have pointed out that the Istook amendment will force them to keep two set of financial books. One to monitor the amount of money spent on lobbying—as defined by OMB Circular A–122 and the IRS—and another to monitor money spent on advocacy—as defined by the Istook amendment. Many organizations point out that it is ironic that the new Republican Congress prides itself on reducing the amount of government intrusiveness and paperwork, yet this amendment would result in the opposite.

Further complicating the reporting requirement is that the Istook amendment requires reporting based on a federal fiscal year. Not only will nonprofit organizations need two books because of the difference in scope of what is being prohibited, but also because they must report on the basis of a federal fiscal year. One nonprofit organization in Chicago described a state grant that includes federal money passed through the state. The organization must submit reports to the state and file an annual report on the state fiscal year, which differs from the federal fiscal year. Under the Istook amendment, they would need to add another report based on the federal fiscal year, but since their state granting cycle cuts across the federal October 1 to September 30 year, it will be very complicated.

(5) The enforcement mechanisms are perceived to be a means for intimidating nonprofits from engaging in any type of advocacy activity. Two Istook amendment provisions stand out. First, that the burden of proof is on the federal grantee to demonstrate "by clear and convincing evidence" that they are in compliance with the provisions in the bill. Under current grant rules, the government, through the audit and narrative reports, determines whether the grantee has been complying with the grant stipulations. If not in compliance, the agency begins administrative actions. Under the Istook amendment, this would be reversed. It is particularly important because of the second point.

The Istook amendment permits anyone to sue a federal grantee for noncompliance with the law under the False Claims Act. Thus, frivolous law suits could be filed for up to ten years that will require the federal grantee to respond. The grantee will need to prove "by clear and convincing evidence" that it was in compliance. Like the new paperwork requirements, this will cost considerable sums of money.

Nonprofit organizations throughout the country criticize this "bounty hunter" provision because it allows hostile groups to harass advocates. A recent letter from Cardinal Roger Mahony, chairman of the National Conference on Catholic Bishops' Committee for Pro-Life Activities, which was quoted in the Washington Post on September 19, 1995, best sums up the concerns: "The prospect that we could now be

[1] Maskell, Jack H., "Constitutional Issues Raised by Proposals to Restrict Privately Financed Advocacy Activities of Federal Grantees," Congressional Research Service, July 28, 1995.

subjected to new litigation directed against our defense of innocent human life, simply because we also receive (federal) grants to help us serve and enhance other human lives, is of the gravest concern to the bishops and to a wide variety of Catholic organizations."

In New York City, as well as elsewhere around the country, nonprofits described these enforcement provisions as an intimidation factor. Because of potential harassment, they feel they will have to give up advocacy. And for many nonprofit organizations providing service delivery, as well as staff working within such organizations, that is an impossible choice. A social worker in Seattle pointed out that their Professional Code of Ethics requires social workers be advocates for their clients, including in the policy arena.

These enforcement mechanisms are also troubling because many nonprofits may not even know that they receive federal grants. The key reason is that they may not know when federal funds are commingled with state or local funds. For example, many states combine federal block grant funds with state funds, but local nonprofit recipients are not even aware of that fact. There lack of knowledge, however, may cost them dearly.

(6) The Istook amendment singles out only one type of federal assistance—grants. While specifically targeting grant recipients for engaging in advocacy using their own, privately raised funds, this proposal specifically exempts federal government contractors, including defense contractors, who spend a lot more of the taxpayer's money than do nonprofits. Under this bill, advocacy by nonprofits will be muzzled, but government contractors will be free to hire as many high priced lobbyists as they want, take out as many full page ads in the Washington Post and buy as many thirty second TV spots as they want, and throw around as much PAC money as they feel is necessary. Many nonprofit organizations feel that is just not fair.

This effort, lead by conservatives, was started as a "defund the left" initiative. But it has turned into an attack on the entire nonprofit sector. Unfortunately, the greatest impact will be felt by small community-based organizations, many of which do not even know they get federal funds because much of the money passes through state and local governments.

In a David and Goliath world, this bill takes the side of the Goliaths against the Davids in the nonprofit community, and the ordinary Americans they represent.

(7) Don't destroy the long standing partnership between government and the nonprofit community. There has been a long-standing partnership between government and the nonprofit sector to provide services and research in this country. This partnership put the nonprofit sector in a unique and well-qualified position to comment on gaps in service delivery, identify problems and strengths with existing law and regulation, and, in general, help to reinvent government to make it more efficient and responsive to public need. The nonprofit sector has become the voice for vulnerable populations and those that do not have the resources or skills to assert their basic rights. While there is a wealth of perspectives within the nonprofit sector, there is one common theme: we speak for the public interest, not a private interest.

The Istook amendment would cut off the ability of nonprofits to provide commentary to local, state, and federal governments, and would have a chilling impact on the entire nonprofit sector. And although House Republican leadership has spoken of strengthening public charities and the voice of the grassroots, the message of the amendment is clear: you should be seen (and do the work), but not heard. Such efforts only work to undermine the strength of the nonprofit sector—and undercut a key part of our American social fabric.

In Spokane, Washington, for example, I was told of partnerships involving nonprofit federal grantees, businesses, and the city government to plan a housing redevelopment initiative for the metropolitan area. The work of these committees were intended to shape city, state, and federal policies to meet the needs of Spokane residents. These activities would be considered "political advocacy" and, for several key nonprofit organizations in Spokane, would be ended by the Istook amendment.

Placing limits on the amount of advocacy federal grantees can perform with their own private dollars forces an untenable choice. They may provide services for people in need OR they may provide a voice for people need. Our American heritage calls for both.

[NOTE.—Attachments A and B can be found in subcommittee files.]

ADDITION TO STATEMENT OF GARY D. BASS

KEY POINTS

1. No federal funds (either directly or through overhead) are permitted for lobbying. No federal funds are permitted to influence the awarding of grants, contract,

or loans. There are severe penalties for violations of either rule, including fines and debarment.

2. These rules apply equally to all types of federal awards—nonprofit grantees, defense contractors, etc.

3. Total federal grants in FY 1994 was $226.4 billion.

4. In FY 1994, 89% of federal grants went to state, local and tribal governments, which would not be covered under the Istook amendment.

5. Even counting some higher education organizations that may be exempt from the Istook amendment because they are organized as part of the state government, total grants covered under the Istook amendment amount to $24.5 billion in FY 94.

6. The amount of money spent on federal contracts ($196.4 billion) is 8 times the amount of money that would be covered under the Istook amendment.

7. If there is "welfare for lobbyists," where is it? Undocumented payments to Pentagon contractors is $500 million to $750 million per year, according to the General Accounting Office. Total lobbying expenditure of charities is $72 million per year.

8. There is an image that charities are spending a lot of money lobbying on various issues. Let's put things in perspective. Two $7,600 Pentagon coffee pots is greater than $12,520, which is the average expenditure of charities that lobby, according to the Internal Revenue Service.

FY 1994 FEDERAL GRANTS

[Grants in millions of dollars]

	Formula grants		Block grants		Project grants		Cooperative agreements		Total grants	
	$ millions	# grants	$ millions	# grants	$ millions	# grants	$ millions	# grants	$ millions	# grants
Grants to state, local and tribal governments	$157,344.4	108,109	$4,644.9	696	$39,053.9	202,140	$844.9	2,900	$201,888	313,845
Grants to higher education organizations	654.4	4,686	2.0	15	11,687.4	75,203	752.8	2,169	13,096	82,073
Grants to other nonprofits	467.0	2,575	1.9	5	6,611.4	27,066	664.0	977	7,744	30,624
Grants to taxable organizations	116.3	179	.2	1	1,267.0	6,612	947.2	804	2,331	7,596
Grants to individuals	< .1	6	0	0	1,313.4	7,823	.9	340	1,314	8,169
Total	158,582.2	115,555	4,648.9	717	59,933.1	318,844	3,209.9	7,190	226,373	442,307

NOTES:

(1) Grants to higher education organizations include public and private universities. Some public universities may be exempt under the Istook amendment since they may be organized as part of the state government.

(2) Total direct grants to entities covered by the Istook amendment is no more than $24.5 billion (total grants minus grants to state, local and tribal governments). In fact, the actual number is probably significantly lower since many public universities and individuals may be exempt.

SOURCE: Census Bureau, Federal Awards Data System.

FY 1994 FEDERAL GRANTS

	Percent
State, Local, Tribal Govts (not covered under Istook)	89
Higher Educ	6
Other Nonprofit	3
Taxable Orgs	1
Individuals	1
Total FY 94 Grants: $226.4 billion	
Covered under Istook: $24.5 billion	

SOURCE: Federal Awards Data System.

CONTRACTS V. GRANTS

[FY 94 dollars]

	In billions
Contracts	196.4
Grants under Istook	24.5

SOURCES: GSA and Census Bureau data.

WELFARE FOR LOBBYISTS?

[Annual; dollars]

	In millions
Undocumented Payments to Contractors Each Year (Pentagon only)	500–750
Total Charitable Lobbying Per Year ($12,520 per charity)	72

SOURCE: General Accounting Office; Internal Revenue Service.

LET'S PUT THINGS IN PERSPECTIVE

2 Pentagon Coffee Pots ($7,600 + $7,600 = $15,200) Is Greater Than Average Expenditure Of Charities That Lobby ($12,520 per year).
SOURCE: Internal Revenue Service.

Mr. MCINTOSH. Thank you for joining us, Mr. Bass, and thank you for providing these charts. If I might interject 1 second before we get to Ms. Aron, it has baffled me why the Federal Government thinks that we only give out $39 billion of grants when the independent sector came and told us it was about $200 billion that their members receive. I would be curious where your number came from so we could cite it.

Mr. BASS. It's sourced, Mr. Chairman.

Mr. MCINTOSH. Thank you. I appreciate that. Because apparently the IRS doesn't keep track of it in the same way. Their number is much lower. And it's always baffled me and something I thought we should get to the bottom of. Thank you.

Ms. Aron.

Ms. ARON. Well, in the interest of expediting this hearing, and the hour is late, I will give an abbreviated opening statement, and you will have my testimony. So I think you know our views on this legislation, and we certainly join in with the YMCA and Gary Bass of OMB Watch who have eloquently stated their objections.

I would basically just make one point, and that is, given the events that have occurred today, the Alliance for Justice has to object to the outrage of committee staff using an apparent piece of Alliance for Justice stationery and putting out false information on such stationery.

Mr. MCINTOSH. Ms. Aron.

Ms. ARON. Let me continue.

Mr. MCINTOSH. I will let you continue. I'm just telling you it's not a fruitful use of your time. It would be much more beneficial to us to hear your arguments about the bill. I will give you your time to use it as you see fit.

Ms. SLAUGHTER. It's beneficial to me, Mr. Chairman.

Mr. MCINTOSH. Well, I don't think it's useful in persuading anybody about the merits of this particular legislation.

Ms. SLAUGHTER. If I could speak to that for just a moment. When you and I talked a while ago, one of the comments that we wanted to make—Ms. Aron has just confirmed what I was asking you about, are these numbers accurate?

Mr. MCINTOSH. Let me ask her that.

Ms. SLAUGHTER. But this really does fly in the face of what you're doing in this hearing, Mr. Chairman. I have to tell the truth, it is absolutely unscrupulous for the committee to put out a phony piece of paper here.

Mr. MCINTOSH. Ms. Slaughter, let's let Ms. Aron answer your question. I would be delighted to hear Ms. Aron's answer to your question, are those numbers accurate?

Ms. SLAUGHTER. She just said that they weren't. I heard it in her testimony. This is what she said.

Mr. MCINTOSH. Well, I'd like to hear that.

Ms. SLAUGHTER. I'd like to hear her say what, in behalf of her agency, she feels has been done to her today by this committee.

Mr. MCINTOSH. I'd be delighted to hear her figures.

Ms. ARON. OK. I'd like to continue. Your office put out false information on such stationery in such a way as to suggest that the information is from the Alliance for Justice. Staff committee deliberately took a piece of our stationery and forged it, the anonymous authors.

Mr. MCINTOSH. Ms. Aron, do you have any indication of people's intent? I mean, do you read people's minds?

Ms. ARON. Well, sir, even if this was unintended, as you state.

Mr. MCINTOSH. I just asked you a question. I mean, do you read people's minds?

Ms. ARON. Well, sir, I cannot fathom why this information was put together except, sir, to say that it was put together in such a fashion as to mislead the public, the nonprofit community, sir, and the press. That is what I believe was the intention.

The anonymous authors of this work have acted in a dishonest and cowardly way. If opponents of the Istook-McIntosh proposal distributed anonymously in this room office stationery with a list, sir, of your corporate contributors that receive Federal grants, you would accuse them of dishonesty and cowardice.

The fact that the information your staff put out is wildly inaccurate makes it that much worse. Sloppiness or deliberate disregard for the facts is almost as serious a crime in policy discourse as is dishonesty.

Now, sir, I would like to tell you a little bit of information about the Alliance for Justice. The Alliance is an association of public interest legal organizations and nonprofit associations. We are tax-exempt, 501(c)(3), and we receive no Federal money. A few of our

members do receive Federal money, but most of the grants that our members receive are pretty minimal in amount.

None of our members use their Federal funds to pay their dues, and all of our membership dues, including dues from members who do not receive Federal grants, make up less than 10 percent of our overall budget. The rest of our money comes from grants from foundations and individuals that they themselves receive no Federal funds whatsoever. The rest come from private law firms, and they perhaps may receive some Federal money in the form of a Federal contract.

That, sir, is information about the Alliance for Justice which I think should provide you with an idea as to what we are about and what our status is with respect to this legislation.

[The provided material follows:]

ALLIANCE FOR JUSTICE,
Washington, DC, Sept. 26, 1995.

Hon. DAVID M. MCINTOSH,
Chairman, House Subcommittee on
National Economic Growth,
Natural Resources and Regulatory Affairs,
B377 Rayburn House Office Building,
Washington, DC.

DEAR CHAIRMAN MCINTOSH: I am writing you in response to your memorandum dated September 20, 1995 in which you requested that the Alliance for Justice provide the Subcommittee with certain information and documents which you state are relevant to the Subcommittee's "oversight investigation." You also stated that upon receipt of this information, Subcommittee counsel may contact the Alliance to set up a meeting to ask follow-up questions.

As an organization dedicated to advancing the cause of justice for all Americans and to strengthening the public interest community's ability to influence public policy, the Alliance recognizes the importance of the issues raised in the Subcommittee's prior hearings and is concerned about the threat to advocacy and speech posed by the amendment under consideration. We are now deeply disturbed by the manner in which you seek to obtain information pertaining to these issues.

Based on prior hearings by your subcommittee and based on the September 13, 1995 invitation to us to testify, we were led to believe that it was to be a hearing on our concerns with the Istook legislation, not, as you now describe it, an "oversight investigation." Indeed, we do not know what you are "investigating."

To the best of our knowledge, no organization that has previously testified before the Subcommittee on the Istook amendment has been requested to submit information of the type demanded in your memorandum. Nor has any group been asked to be available to meet with Subcommittee counsel prior to the hearing to review responses to questions. The questions and implicit threats to which the Alliance has been subjected are objectionable and beyond any proper scope of the hearing. Rather than making a bona fide effort to explore the issue of lobbying by federal grantees, the Subcommittee now seems determined to pursue a new course of undefined "investigations" seeking to chill legitimate opposition to your position by making burdensome and intrusive demands for largely irrelevant information.

The Alliance, like other opponents of the Istook amendment, conducts its advocacy activities in a wholly appropriate and legal manner, and the various publicly available materials that I am providing with this letter will demonstrate that.

I am enclosing copies of the Alliance's Annual Information Return filed with the Internal Revenue Service for fiscal years 1993 and 1994. However, as provided under section 6104(e) of the Internal Revenue Code, the names and addressed of Alliance contributors are not included. I am also providing copies of the audited financial statements for 1993 and 1994. This documentation should be sufficient.

The Alliance is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code and, as reflected on the Form 990s, has made the lobbying election provided in section 501(h) of the Code. Our lobbying activities, as defined in section 4911 of the code, are reflected in Schedule A of Form 990 for each year.

You have asked certain questions about "political advocacy." The definition of "political advocacy" set forth in the Istook amendment is much broader that the definition of lobbying in the Internal Revenue Code or any other current provision of law.

Since we do not maintain records showing the amount of time we spend on activities outside of the IRC or other currently applicable definition, we are unable and it is inappropriate for us to provide you with information about time spent on categories like "political advocacy" or "political activity" that have no legal definition or common understanding up to this point in time. In accordance with section 501(c)(3), the Alliance does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

The Alliance does not have any "affiliated" organizations as that term is commonly understood. We do have 30 members, the great majority of whom are exempt from federal taxation under section 501(c)(3). As set forth in the Annual Information Return, less than 10% of the Alliance's revenue comes from membership dues. Also, as set forth in the Returns, the Alliance has not received business or other income which is unrelated to its exempt purposes, nor has it been compensated for endorsing any goods or services.

The Alliance has never sought nor received federal grant assistance of any kind. Moreover, most of our members do not seek or receive federal grant assistance. The Alliance's primary source of income is gifts and grants from individuals, law firms, private foundations and public charities. We have no way of knowing whether any of our individual donors including foundations and law firms receive federal grant assistance.

Finally, the breathtaking scope of your questions regarding our activities and those of our members, donors and colleagues, as well as the inappropriate follow-up activities of your staff, implicate associational activities protected by the First Amendment. Indeed, this "inquiry" to which you are subjecting witnesses and the threat it poses to First Amendment rights, is itself a reflection of the dangerous chilling effect posed by the "political advocacy" legislation.

Sincerely,

NAN ARON,
President.

Mr. MCINTOSH. Thank you for joining us today.

Let me ask, Ms. Aron, since you have raised this now, a couple questions. Is it true that the American Arts Alliance receives a Federal grant?

Ms. ARON. Well, let me say this, sir. We took the position in our response to your questionnaire that this information was really information protected by the first amendment. However, since we are here, and since American Arts Alliance is here also, they did give me their permission to disclose to you the fact that, in fact, contrary to the information contained in the document prepared by your staff, they, in fact, receive no Federal grants. And I believe, sir, they have never received Federal grants.

Mr. MCINTOSH. OK. I will check that out. Our data base indicates that they do receive the grant. We'll check into the data base.

I think to say that something is a first amendment right when it's a public document.

Ms. ARON. But sir.

Mr. MCINTOSH. Let's ask you about the Center for Law in the Public Interest, do they receive a Federal grant?

Ms. ARON. Sir, I will not—I will not go into the amounts of Federal moneys that my members receive.

Mr. MCINTOSH. Because you're trying to hide the way the Federal Government is spending its money and where it's being spent.

Ms. ARON. I do not consider that an appropriate question.

Mr. MCINTOSH. I think that's a very indicative response, that you're trying to hide.

Ms. ARON. No, I have nothing to hide.

Mr. MCINTOSH. It goes to your financial interest in this.

Ms. ARON. Less than half of our members.

Mr. MCINTOSH. The taxpayers have a right to know where money is spent.

Ms. ARON. Less than half of our members, sir, receive Federal funds.

Mr. MCINTOSH. Now, you indicated to me that.

Ms. ARON. Could you please let me finish?

Mr. MCINTOSH. No, you let me finish. You indicated to me in earlier testimony that you were aware that none of your members used Federal grant money to pay the dues that they pay to you.

Ms. ARON. That's correct.

Mr. MCINTOSH. Now, in order to know that, you have to determine whether they receive a Federal grant.

Ms. ARON. That's correct.

Mr. MCINTOSH. OK. Does the Center for Law in the Public Interest receive a Federal grant?

Ms. ARON. I will not answer that question.

Mr. MCINTOSH. Are you taking the fifth amendment?

Ms. ARON. I am saying that you have no right to ask me that information.

Mr. MCINTOSH. Are you taking the fifth amendment?

Ms. ARON. That right is protected by the right of association, as spelled out in NAACP. And I am not taking the fifth amendment. You have no right to get that information from me.

Mr. MCINTOSH. You're simply obfuscating.

Ms. ARON. No, I am not. I am telling you, sir, that only a small number of our members receive Federal money, and not one penny of that Federal money goes to our dues for the Alliance for Justice. I would also like to add, sir, that most of the members of the Alliance for Justice raise most of their money from private sources; that is, contributions from individuals and foundations. So to the extent they have Federal funds, they are very minimal.

Mr. MCINTOSH. Let me say, my concern is for the taxpayer moneys at this point. Does the Consumers Union receive a Federal grant?

Ms. ARON. I will not comment on that.

Mr. MCINTOSH. Does the Food Research and Action Center receive a Federal grant?

Ms. ARON. I also will not comment on that, sir, or that of the funding of any of our members.

Mr. MCINTOSH. Does the National Education Association receive a Federal grant?

Mr. SPRATT. Mr. Chairman, I think the witness has made her position clear. She feels that this information is confidential. And if it can be obtained, you can submit a request to these individual grantees and find out if they wish to disclose it.

Mr. BASS. Mr. Chairman, also, if I could describe a little of the grant procedure.

Mr. MCINTOSH. Let me make it clear here, it's my position that Ms. Aron is trying to hide our ability to trace back the way the taxpayer moneys are used to subsidize lobbying efforts. She has come in and told us, quite candidly, her main activity is lobbying, and particularly on judicial selection issues.

Ms. ARON. No, sir, I don't believe I said that.

Mr. MCINTOSH. That was in the documents that we read, that chiefly your lobbying activity was in the area of judicial selection.

Ms. ARON. We engage in many different forms of advocacy, sir, including lobbying Congress.

Mr. MCINTOSH. OK.

Mr. BASS. Mr. Chairman, if I could, on this one issue, since we're here to talk about the bill, I'd like to bring it back to what some of the grant rules are, because many local nonprofits I met were concerned about this association concern.

One of the points that they had made to me was that, if they gave money to someone who did advocacy, or I should say, if they gave money for something that was not consistent with the purpose of the grant, they would have to face that problem through their audit, and that it would be an unresolved audit if it was an expenditure that was not consistent with the purpose of the grant. So then that grantee would have to repay the money.

So I think that's an important point, because that is the process under the current procedure to capture those problems.

Mr. MCINTOSH. I think one of our key points is, the current procedure is flawed in its ability to do that. And we had testimony from the Alcohol Policy VIII Conference where they used a Federal grant to sponsor a conference to teach people how to be lobbyists. And I think there are problems out there that we need to get to and find the facts on behalf of the taxpayer on that.

Mr. Bass, let me ask you, do you have any interest in this particular legislation as an institution? Will it affect OMB Watch or any of your associates or affiliates?

Mr. BASS. Sure. No, I think it has an enormous impact on us. I think it's at least three or four ways. I think the first way is that one of our missions is to encourage greater public participation in the governance process, get more involved in your Government. In fact, the way we read this bill, it says, get less involved.

I think a second way is that we're very concerned about improving service delivery in the country, particularly for those that are vulnerable populations. At a time of shrinking resources, the nonprofit sector becomes even more vital. What this says is, do more, but don't talk to us about how you're doing it. I have a concern about that, because I think it's going to have an impact on service delivery.

Mr. MCINTOSH. If I might interject, it's really, don't talk to us about spending our money to do what you should be doing.

Mr. BASS. I'm sorry. I couldn't hear you on that.

Mr. MCINTOSH. The real philosophy—and I think Mr. Ehrlich went to it—is, don't spend your money talking to us about how we should spend Federal money.

Mr. BASS. I think there is a difference in philosophy, because I think that, from our perspective, there is a very rich history in this country of nonprofits working with Government at the local, State, and Federal levels to provide services. And, in fact, most governments come to the nonprofit community because they know best about policy gaps, about problems in service delivery, if you will, how to reinvent government.

Mr. MCINTOSH. Let me come back to you on that line of questioning. In fairness to Mr. Spratt, I think my time is up.

Mr. BASS. I'd also like to mention one other way we're affected, though.

Mr. MCINTOSH. I will come back and give you time to do that.

Mr. Spratt, do you have any questions for the witnesses?

Mr. SPRATT. Let me ask the two witnesses, first of all, Ms. Aron, would you simply clarify your position? As I understand it, this is public information.

Ms. ARON. I'm sorry.

Mr. SPRATT. The grant information here, I don't know if it's right or wrong, but somebody derived this information from some source, so that it's not necessary to obtain it from you in the first place.

Ms. ARON. Oh, sure. Right. You can certainly get this information from any of these organizations by simply asking them. But we're not really in a position at this point to go down, group by group. But this is information that's a matter of public record. As a matter of fact, it's on the forms that they fill out.

Mr. SPRATT. So nothing is being hidden then.

Ms. ARON. Nothing is being hidden.

Mr. SPRATT. And this document speaks to the fact that nothing is being hidden. Some things are being mistaken, but nothing is being hidden, because the information is available from public sources.

Ms. ARON. And I would also like to add that we are not hiding anything. We have provided this subcommittee with our 990's, with an audited statement, which also contains all the financial information that this subcommittee needs to know for the purposes, I think, of this hearing. So we have provided all the information that is a matter of public record about the Alliance for Justice.

Mr. SPRATT. Now, let me ask each of you, if this bill were to become law, there's a provision in it which prohibits grantees from purchasing anything or procuring any services from any entity that spends more than 15 percent of its expenditures on political advocacy. Would each of you be spending more than 15 percent of your expenditures each year on what would be considered political advocacy under this bill?

Ms. ARON. We certainly would, I think, spend well over 15 percent on advocacy, as defined in this legislation.

Mr. SPRATT. As defined in this bill.

Mr. Bass.

Mr. BASS. I would speculate that we would, but I should tell you that we have no accounting mechanism in place right now to monitor advocacy. We monitor lobbying.

Mr. SPRATT. So there would be at least a number of firms, not all, but a number of firms in your coalition or membership group who could not participate any longer because you would be a nonqualified entity. What services do you provide these people? As I understand it, among them is a road map on how to comply with the law.

Ms. ARON. Right.

Mr. SPRATT. How to stay abreast of the law and how to comply with the law, and how to engage in advocacy without running afoul of Internal Revenue restrictions.

Ms. ARON. We actually do produce some booklets that lay out the rules and regulations that nonprofits need to know, IRS rules and

regulations, in carrying out their lobbying and other advocacy activities. But we also engage in litigation from time to time, filing amicus briefs, participating in administrative rulemaking, sending letters to the editor, calling up officials at agencies at the State, local, and Federal levels.

So, in fact, we're engaged in an enormous amount of advocacy which is a direct service, really, to our 30 members.

Mr. SPRATT. Ironically, one of the things you're engaged in helps grantees and others comply with the law, abide by the law, and not spend more than the legal restricted amount on lobbying activities.

Ms. ARON. That's absolutely right.

Mr. SPRATT. And you would be restricted from providing that service if this bill were to become law.

Ms. ARON. That's right.

Mr. SPRATT. Mr. Bass, what about your membership organizations?

Mr. BASS. We are not a membership organization. No one pays us dues. It's subscription-based. They receive a publication or series of publications. It would be a problem for us in two ways.

Mr. SPRATT. But it says you can't purchase—it's not just membership; you can't purchase anything from your organization.

Mr. BASS. There are actually two 15-percent provisions in the bill. One is, it says I can't use my grant money, to spend any of my grant money with any entity that spends 15 percent or more. The other is, if I, in turn, work with or spend money with anyone else who spends 15 percent on advocacy, then I, in turn, am doing advocacy.

Mr. SPRATT. They can't subscribe to your publication.

Mr. BASS. That would be a problem. It would also be a problem for many who participate in, say, coalitions that we help to organize. They may be Federal grantees, and it would be awfully chilling, from their perspective.

Let me add, Congressman, that I think the reason it's so chilling, isn't just simply that provision; it's that there is what we have dubbed the "bounty hunter provision" on this amendment; that is, under the False Claims Act, anyone can file a suit for violations under this. So if someone did not certify that they protected the 15 percent, they could be harassed with a lawsuit. That's why Cardinal Mahoney was quoted in the Washington Post as pointing out that this is a real problem.

Mr. SPRATT. Thank you very much indeed, both of you.

Mr. MCINTOSH. Thank you, Mr. Spratt.

Ms. Slaughter, I have some more questions, but I want to give you a chance to ask yours.

Ms. SLAUGHTER. Mr. Chairman, I don't particularly have any questions to ask of this panel. I thank them very much for being here. I hope that the testimony brought forth here today will be made available to everybody in the United States.

Ms. Aron, I don't know what to say to you. I've been in Congress for 9 years, and in all that time I know of no instance where staff did such a despicable thing as this. And the idea of talking that this is sort of a "boys will be boys" thing, that's not so. This staff of people work for the United States of America. It's the highest calling they will ever answer.

And to do something like this, under any circumstances, but somehow when it's done here in Congress, it's more egregious to me. I take it very seriously, and I will try to get to the bottom of this. I want to make you that pledge.

Ms. ARON. Thank you very much.

Ms. SLAUGHTER. You're welcome.

Mr. MCINTOSH. Thank you, Ms. Slaughter.

Mr. Bass, you had a third point.

Mr. BASS. Yes. I had actually a third and a fourth. The third is what I was just alluding to with Congressman Spratt, and that is that we encourage coalition building. And we also encourage leveraging public and private resources to build something greater than what either, on their own, could do. In many respects, because of this 15-percent issue, it would present a chill.

The fourth point is, we would directly be affected, because we run an on-line service called RTK NET, the Right-To-Know Computer Network, and our partner in that, which is Unison Institute, is a Federal grantee. If, in turn, we spend more than 15 percent on advocacy, they wouldn't be able to do business with us.

That service was in place since 1989, long before any Federal funds came in. It's a service that reaches about 3,000 community groups around the country, as well as businesses, State and local governments, to provide them environmental data and housing data and various other information. So that would present an example of a problem in doing some kind of joint project.

Mr. MCINTOSH. Let me ask you a little bit more about, is it, RTK Network, or Right-To-Know Network?

Mr. BASS. RTK NET, yes.

Mr. MCINTOSH. And that is a joint venture with another group, Unison Institute; is that right?

Mr. BASS. It's actually a partnership of the foundation community, Government, Unison Institute, and OMB Watch. That's correct.

Mr. MCINTOSH. And you operate on the World Wide Web, so I take it it's a computer data base that they maintain?

Mr. BASS. That's correct.

Mr. MCINTOSH. And they receive Federal grants to maintain that data base?

Mr. BASS. No. I believe their grant is focused on data integration and data dissemination. One of the issues that their skills are focused on is how to take disparate data bases and provide a link so that people can use them.

Mr. MCINTOSH. And you work with them in providing information on some of the activities that you monitor at OMB Watch?

Mr. BASS. Not exactly. Our skill that we bring to that is primarily in training and building the capacity of users to learn how to use the on-line service, as well as to use the data on the service. So it's a marriage, if you will, of two different skills, programming skills and computer skills with skills around training.

Mr. MCINTOSH. So if our legislation were in effect, you would have to choose either to sever that relationship.

Mr. BASS. Or stop advocacy.

Mr. MCINTOSH. Or stop advocacy.

Mr. BASS. Correct.

Mr. MCINTOSH. So I understand you've got some interest in the outcome of this legislation. Does that materially affect your advocacy efforts?

Mr. BASS. I don't believe so. I would say in no way.

Mr. MCINTOSH. If you had to sever.

Mr. BASS. No. No. I do think that that example, however, Mr. Chairman, is part of the problem of some of the pieces of the bill, because our example is not unique. That happens a great deal at the local level where these partnerships have developed.

The example I gave where I was speaking of Spokane is just one place. Yesterday I was in Ohio where the Community Shelter Board was created, and how that was created was that the business community requested it. It gets city money, which also carries with it commingled Federal dollars to provide homeless issues.

They actually not only provide services, but they work with the business sector to develop policy objectives to push, if you will, the city to do more in the area of hunger and homelessness. So it's an example where that kind of partnership becomes more problematic.

Mr. MCINTOSH. Do you see any problem with groups that receive essentially 95 percent of their funds from the Federal Government also maintaining a political action committee? Is there a problem of confidence?

Mr. BASS. Let me be clear. I can't speak to the National Council on Senior Citizens. But, in a hypothetical situation, the important thing is to abide by the practice and principles of what is currently law. If that hypothetical organization that is 96 percent or 94 percent, let's take 96 percent, federally funded, if they go 4.5-percent above in spending on Federal or State lobbying activities, that is, attempts to influence legislation, then they should be fully charged with not abiding by the law.

I want to be real clear about that.

Mr. MCINTOSH. I understand that from your earlier testimony, as well, and we're going to try to find out whether that happens. But the question is, let's assume that they stay below that. Let's create a hypothetical. They get 96 percent of Government funds and they get 4 percent from the private sector, and they spend all 4 percent of it engaged in fairly partisan political activities. Don't you think that the taxpayer has a right to be somewhat upset about that connection?

Mr. BASS. I don't. I think that that's a decision of the Federal agencies in giving the grants to that entity, if they are providing a service that is of value to the agency. In this hypothetical agency that we made up, one might recall that it might have been 12 years of Republican administrations or 50 years of Democratic. It doesn't matter. If the agency is deciding that the service that they are providing is of value, that's good for the country.

Mr. MCINTOSH. I think it's probably most related to 40 years of majority control in Congress.

Ms. ARON. But sir.

Mr. MCINTOSH. Let me just say, I do think there's a problem there for the American taxpayer, and especially today when we're being asked to be very careful and judicious in how we're spending their moneys. And there are a lot of perceptions where there are

agendas that are being furthered that the American citizen doesn't agree with in that.

And, frankly, it's costing us some very good and worthwhile programs. I like my symphony in Muncie, for example, but we're going to end up defunding the National Endowment for the Arts because of some of the abuses.

Ms. ARON. But, sir, that is a different issue.

Mr. MCINTOSH. No, I understand, but it's related.

Ms. ARON. No.

Mr. MCINTOSH. In the sense that the taxpayer today, I think, justifiably thinks that we are abusing the way we spend their money.

Ms. ARON. No.

Mr. MCINTOSH. I'm sure of that.

Ms. ARON. For 5 hours, we have heard about the National Council of Senior Citizens. I have not heard one statement from anyone up here or any witness that any Federal dollars are going for improper activities. Not one person has made that allegation. And isn't that what we're talking about here today with this legislation, are Federal dollars being used improperly? If so, we need to remedy that. But, in fact, the law already provides remedies.

But no one has come forth, even during a discussion of the audit of the National Council of Senior Citizens, and indicated that one Federal penny is going for lobbying. That is the subject.

Mr. MCINTOSH. Let me address that, because, first of all, there are examples from a previous hearing, the Alcohol Policy VIII Conference which was a clear abuse of that. But as Congressman Longley pointed out, the audit of the National Council of Senior Citizens said their viability as an organization could not be sustained without those Federal grants, and we know they are engaged in a very extensive political operation.

So there is this definite indirect, even by their own internal audit, indication that, without this Federal grant money, they couldn't engage in these political activities.

Ms. ARON. But what's unlawful about that?

Mr. MCINTOSH. I don't think the American citizen is worried about what's unlawful. In fact, we're passing this law to change it so that we put an end to this. It's a problem. It's a problem in confidence that the taxpayer thinks that their money is being misused and that there are lots of groups here in Washington—I know people in Washington don't want to hear this or don't want to face this, but they are very worried that there are groups here in Washington who benefit from that and that we need to cutoff the cycle.

Mr. BASS. I do think we could debate this back and forth about what the audit indicated, what the audit didn't indicate. In fact, I think, most often, I've been told, "We're too heavily dependent on foundation grants, and we couldn't carry on our activities if any of our foundations went a different way." That's not an unusual comment for an auditor to put when you have heavy reliance on a single source.

I think that what's important here is that your bill goes so far to capture too much. You're capturing too much of what community groups do on a day-to-day basis. So I think you're erring on the wrong side here. You're just going too far.

Mr. McINTOSH. And it's getting late. Unless Mr. Spratt has any other questions, let me invite both of you, if you think we're going too far and should come somewhere other than the status quo, please submit that to me. What I heard from the testimony was, you think the current law is sufficient. But if you recognize or decide, for some reason, that maybe we have identified problems, please—I'm not being facetious—submit suggestions in that area.

Let me close by saying thank you, Mr. Bass, for being candid about your relationships in this, and I appreciate that, with Federal grantees. I appreciate both of you being willing to come here today and to testify. Obviously, we disagree, but I do appreciate your spending your time in that way.

If there are no further questions, this hearing has now come to an end, and we stand adjourned.

[Whereupon, at 7:05 p.m., the subcommittee adjourned.]