



April 28, 2016

Chairman Kevin Brady
House Ways and Means Committee
United States House of Representatives

Ranking Member Levin Sanders
House Ways and Means Committee
United States House of Representatives

Chairman Brady and Ranking Member Sanders:

On behalf of the 1,800 state legislators of the American Legislative Exchange Council (ALEC), the Jeffersonian Project is writing to express our support for the "Preventing IRS Abuse and Protecting Free Speech Act." This bill would reassert the primacy of Constitutional free speech protections by amending the Internal Revenue Code of 1986 to prohibit the Secretary of Treasury from requiring the disclosure of donors to 501(c) charitable organizations on annual forms.

In recent years, critics of the First Amendment have sought to stifle free speech through political intimidation, to include abusing the regulatory authority of the IRS. For example, in 2014, the IRS admitted that it had intentionally leaked the Form 990 of the National Organization of Marriage, consequently subjecting the nonprofit organization to threats and harassment by political opponents.

ALEC has experienced firsthand attempts to chill our free speech rights. In 2013, Senator Dick Durbin of Illinois threatened our corporate donors with IRS investigations if they did not renounce their support for ALEC. The attacks made our donors hesitant to exercise their free speech rights at ALEC.

Fortunately, our donors valued ALEC's role as a forum to educate policymakers on free market solutions to public policy issues and ALEC survived the onslaught by Senator Durbin. However, 501(c) organizations like ALEC remain vulnerable to rank political attacks as long as the IRS continues to have access to our donor information.

At the state level, California attorney general Kamala Harris has ordered conservative organizations, Americans for Prosperity Foundation (AFPF) and the Center for Competitive Politics (CCP), to disclose their donor lists. AFPF successfully challenged the mandate in district court, whereas CCP's legal challenge was rejected by the Ninth Circuit Court of Appeals. This legislation would expose state governments' attempts to force disclosure of donors as mere partisanship by eliminating donor information on the Form 990 altogether, consequently, denying states access to that information.

Additionally, the IRS has admitted that the disclosure of contributors to 501(c) is unnecessary towards the execution of its administrative functions. At a seminar held on December 1, 2015 by the Urban Institute, Tamara Ripperda, IRS Director of Exempt Organizations publicly stated that the IRS is contemplating elimination of the Schedule B donor reporting requirement because of the difficulty of managing the information, maintaining its statutory confidentiality and its relative lack of utility for purposes of reviewing and overseeing exempt organizations.



This legislation is needed to prevent the IRS and other government agencies from using Form 990s to intimidate and harass political opponents. Freedom of speech is an indispensable component of American political discourse, therefore, protections from undue government burdens on that right is essential towards the preservation of a free and open society.

Our name sake, Thomas Jefferson, understood that freedom of speech is among the most consequential of human liberties when he proclaimed, "... that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments... or by civil incapacitations, tend only to beget habits of hypocrisy and meanness."

Therefore, in accordance with our Nation's founding principles, and in defense of the free speech rights of ALEC, our 1,800 legislative members and Americans across the country to engage in reasoned, civil political discourse, the Jeffersonian Project urges your committee to pass the "Preventing IRS Abuse and Protecting Free Speech Act."

Lisa B. Nelson
Chief Executive Officer
The Jeffersonian Project