

October 6, 2009

Frank Wright, Ph.D.
President & CEO
National Religious Broadcasters
9510 Technology Drive
Manassas, VA 20110

Dear Dr. Wright:

I am writing in response to your letter dated September 30, 2009. When I met with a large group of representatives from several Christian organizations on May 15, 2008, I made clear that my door was always open for questions and dialogue on all topics of concern to members of that group, including those related to my work in strengthening the charitable sector. National Religious Broadcasters (NRB) Senior Vice-President and General Counsel, Craig Parshall, was an active participant in that meeting.

One of things I appreciated learning from that May 2008, meeting was that NRB required its members to also be members of the Evangelical Council for Financial Accountability (ECFA). As you are aware, the ECFA's "Seven Standards of Responsible Stewardship" include standards for Boards of Directors and Financial Oversight as well as Conflicts of Interest. So, I am a surprised – and disappointed - by the content and tone of your letter to me and Chairman Baucus and the accompanying press release issued by Mr. Parshall. Please note that my office has no record of receiving this letter and that it was provided to my office by members of the press.

Mr. Parshall may be mistaken in his assessment of my amendment to the America's Healthy Future Act of 2009. I am a strong believer of the First Amendment protections. As a result, I would not expect – and certainly would not support – religious organizations, Christian or otherwise, "being forced to give up their fundamental religious liberties as a condition of preserving their tax-exempt status under the Internal Revenue Code" as you state in your letter.

I have enclosed a copy of the amendment as filed. My amendment would simply clarify that the Internal Revenue Service (IRS) has the authority to ask questions about governance and management practices that it is already asking on the revised Form 990. I did not intend for the IRS to add any new questions on this topic. Please note that, because churches are not required to file Form 990s, ministries that are churches would not be affected.

I have been interested in the accountability and transparency of tax-exempt organizations for almost eight years now. Many of my investigations, from the American Red Cross and The Nature Conservancy to ACORN, indicate that lax governance raises issues with tax law compliance. My amendment was simply intended to make sure that organizations that are required to file a Form 990 answer all of the questions currently asked on the form. As IRS instructions to the Form 990 make clear, tax laws do not

mandate any specific policy or practice and my amendment is consistent with that assessment. Here is the language from page 15 of the IRS Form 990 instructions.

“Part VI requests information regarding an organization’s governing body and management, governance policies, and disclosure practices. Although federal tax law generally does not mandate particular management structures, operational policies, or administrative practices, every organization is required to answer each question in Part VI.”

You state in your letter that my proposed amendment “would create a breath-taking increase in the power of the I.R.S. over nonprofit groups”. Since I encouraged the IRS to revise the Form 990, which hadn’t been revised in 30 years, I would appreciate understanding whether your concerns are related to the questions asked in part VI of the revised form or if you are concerned that my amendment would result in new questions. Also, to the extent that you provide advice to your members related to completing the Form 990, I would appreciate understanding what advice you provide related to answering the existing questions in Part VI.

The last paragraph of NRB’s press release regarding my amendment states that NRB promotes “standards of excellence, integrity and accountability.” This combined with NRB’s requirement that NRB members also be members of ECFA leads me to believe that NRB shares my interest in strengthening the charitable sector.

Thus, I look forward to your response and am happy to address any further questions you may have. In addition, please do not hesitate to contact Theresa Pattara of my Finance Committee staff at (202) 224-4515. As you may know, prior to joining my staff, Theresa spearheaded the changes to the Form 990 at the IRS and so may be a valuable resource for you.

Sincerely,

Chuck Grassley
Ranking Member

cc: Chairman Max Baucus

GRASSLEY AMENDMENT #F7

Clarifying IRS Governance Reporting Requirements for Tax-exempt Organizations

Purpose:

To ensure that tax-exempt organizations report governance and conflict of interest information as part of their annual reporting requirements with the IRS

Description:

The Chairman's Mark contains several significant provisions regarding tax-exempt organizations. In addition to new requirements for charitable hospitals, the Mark creates tax-exempt cooperatives and a tax-exempt organization to conduct comparative effectiveness research.

The Internal Revenue Service recently revised the annual information reporting requirements for tax-exempt organizations. As part of this revision, the IRS began asking questions regarding the an organization's governance that cover topics such as relationships among management officials and whether the organization has a conflicts of interest policy and whether conflicts are required to be disclosed. IRS's position is that governance and management practices can be indicators of compliance with the tax laws. This position is echoed by the Panel on the Nonprofit Sector in its June 2005 report where it recommended that the IRS ask information about the independence of an organization's board members.

Section 6033(a)(1) of the Internal Revenue Code specifies certain items that an organization exempt under section 501(a) must report on its annual return. In addition, organizations must all "such other information as the Secretary may by forms or regulations prescribe".

Section 6033(a)(1) clearly provides the IRS with authority to ask questions about governance and management policies. However, some lawyers have publicly questioned IRS's authority and have indicated an intent to encourage clients to not answer such questions in order to mount a legal challenge should IRS assess a penalty for filing an incomplete return.

This amendment would protect IRS from such wasteful legal challenges by adding language to 6033(a)(1) to specifically mandate that IRS require governance and management information be reported in annual filings.

This provision is expected to have negligible revenue effect.