

LR 384

Introduced by Senator Linehan

Referred to the Revenue Committee

October 12, 2024

Chair **Lou Ann Linehan**

Revenue Committee

Nebraska Legislature

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Introduction

The Revenue Committee

The Revenue Committee (referred to as ‘the Committee’ throughout this report) is one of the standing committees within the Nebraska Legislature. There are eight members of the Committee from all three Nebraska Congressional districts. Current members are Chairwoman Lou Ann Linehan (District 39), Vice Chairman Brad von Gillern (District 4), Senator Kathleen Kauth (District 31), Senator Joni Albrecht (District 17), Senator Fred Meyer (District 41), Senator Dave Murman (District 38), Senator Eliot Bostar (District 29), and Senator George Dungan (District 26). The Committee holds hearings on and considers legislation regarding a broad range of taxation issues, including sales taxes, personal and corporate income taxes, property taxes, excise taxes, economic development incentives, and inheritance taxes.

LR 384 Summary

The Committee is concerned that certain non-profits, some of whom appear frequently before the Legislature and in the Capitol rotunda, have exceeded the limitations imposed by federal law on lobbying by 501(c)(3) organizations. Because contributions to 501(c)(3) organizations are income-tax-deductible, the improper use of tax-exempt donations for lobbying purposes results in significant losses of revenue to the State of Nebraska. For example, \$285,000,000 in corporate shares donated to a 501(c)(3) organization result in the loss of millions of dollars in state revenues.¹ Consequently, the Committee has a significant interest in ensuring that 501(c)(3) organizations are not engaged substantially in lobbying, and the activities of such organizations fall squarely within its purview. If the organizations in question are, in fact, failing to observe the legal restrictions placed by Congress on lobbying by charitable organizations, the result is that tax-exempt funds are unfairly leveraged to influence public policy.

The Committee is particularly concerned about the degree of involvement in advocacy/ lobbying by the following organizations: (1) Stand for Schools, (2) OpenSky Policy Institute, (3) Nebraska Civic Engagement Table, and (4) Civic Nebraska. In addition to these groups, the Committee is concerned by their apparently intimate connections with two large, Nebraska-based private foundations: the Sherwood and Weitz Family foundations. While the Sherwood Foundation states on its website that the foundation does not fund “lobbying or attempting to influence legislation”,² this does not hold up to serious inquiry. From 2016 to 2022, grants from Sherwood and Weitz foundations, totaling \$3,995,894, made up an average of 56.7% and 53.1% of annual revenues for OpenSky Policy Institute and Nebraska Civic Engagement Table, respectively. Furthermore, from 2017 to 2021, grants from Sherwood Foundation, totaling \$1,241,380, comprised 84% of annual revenues for Stand for Schools.

The majority of funds provided to these organizations have been in the form of ‘operating grants’, which allow the recipient group almost unlimited discretion in the use of the donated funds. Thus, while not specifically designated or ‘earmarked’ to influence legislation, funds given via operating grants to the organizations in question enable them to carry out their lobbying activities without raising the attention of the IRS or requiring careful accounting. Furthermore, through a network of shared personnel, including directors and board members, these private foundations may be able to exert significant influence on how grant funds are used, including to try to influence legislation.

After extensive research into the matter, the Committee has drawn several conclusions:

1. 501(c)(3) organizations funded by Sherwood and Weitz Family foundations, such as Stand for Schools, OpenSky Policy Institute, and Nebraska Civic Engagement Table, are engaged in advocacy/lobbying to attempt to influence legislation.
2. Stand for Schools is substantially involved in advocacy/lobbying, such that they should be classified as an ‘action organization’, which is incompatible with the organization’s 501(c)(3) status. Moreover, the activities of OpenSky Policy Institute raise serious questions around the extent of the organization’s involvement in advocacy/lobbying.
3. The Sherwood and Weitz Family foundations work through the aforementioned organizations to influence public policy with nontaxable funds intended for charitable purposes.

In view of these facts, it is clear that the Sherwood and Weitz foundations actively use their vast financial resources to exert influence on public policy in Nebraska by funneling large sums of money, in the form of operating grants, through smaller 501(c)(3) organizations which support and lobby for their legislative priorities.

Chapter I: Background to Nonprofit Organizations

September 6, 2024 Hearing

On September 6, 2024, the Committee conducted a hearing on LR 384, an interim study intended to examine 501(c)(3) organizations, their nonprofit status, and use of nontaxable income, including the use of nontaxable income for advocacy purposes. The following nine 501(c)(3) and 501(c)(4) non-profit organizations were individually invited to testify at the September 6 hearing, as displayed below on Table A (see [appendix a-1](#) for letters of response).

Organizations Invited to Testify on LR 384	Non-Profit Status	Invitation Recipient	Invitation Status
<i>OpenSky Policy Institute</i>	501(c)(3) + 501(h) elected	Dr. Rebecca Firestone	Invited; Dr. Firestone accepted; Katie Joseph (Cline Williams) responded to rescind Dr. Firestone’s acceptance on behalf of OpenSky
<i>Stand For Schools</i>	501(c)(3) + 501(h) elected	Dunixi Guereca	Invited; declined invitation via email
<i>Sherwood Foundation</i>	501(c)(3) PF (Private Foundation)	Susan Buffett	Invited; declined invitation via email; directed Sen. Linehan’s office to Alliance For Justice
<i>Alliance For Justice</i>	501(c)(3) + 501(h) elected	Quyten Tu	Invited; declined invitation via email
<i>Weitz Family Foundation</i>	501(c)(3) PF	Katie Weitz	Invited; declined invitation via email
<i>Holland Children’s Movement</i> + <i>Holland Children’s Institute</i> (affiliate) + <i>Holland Foundation</i> (affiliate)	501(c)(4) 501(c)(3) PF 501(c)(3) PF	Mary Ann Holland	Invited; Holland Children’s Movement requested clarification via email; clarification provided; Sen. Linehan’s office followed up via phone twice; correspondences not returned
<i>Platte Institute</i> + <i>Platte Institute Action</i> (affiliate)	501(c)(3) + 501(h) election 501(c)(4)	Jim Vokal	Invited; testifying

<i>Americans for Prosperity</i> + <i>Americans For Prosperity Foundation</i> (affiliate)	501(c)(4) 501(c)(3) + 501(h) elected	John Gage	Invited; testifying
<i>American Federation for Children</i> + <i>American Federation for Children Growth Fund</i> (affiliate)	501(c)(4) 501(c)(3) + 501(h) elected	Ryan Cantrell	Invited; unable to attend

Table A, ‘Organizations Invited to Testify on LR 384’

While the Committee appreciated the testimony provided by all of the organizations present at the LR 384 hearing, this report will not concentrate on Platte Institute, Americans for Prosperity, or American Federation for Children because these organizations are affiliated with 501(c)(4) organizations through which they conduct the most lobbying activities.

**Tax-Deductible Contributions, Lobbying,
and Federal Rules And Regulations on Nonprofits**

Central to the hearing was testimony written by Professor Paul Weitzel, J.D., a professor of law at the University of Nebraska College of Law and expert in nonprofit organizations. Prof. Weitzel submitted written testimony regarding federal taxation of nonprofit organizations, which was read into the record (see [appendix a-2](#) for the scan of Prof. Weitzel’s testimony).

In his written testimony, Prof. Weitzel outlined the differences between 501(c)(3) organizations and 501(c)(4) organizations. First, 501(c)(3) organizations operate for charitable purposes, often providing services and resources to their communities that are not otherwise available. On the other hand, 501(c)(4) organizations operate for the broader promotion of ‘*social welfare*’. Because of their specific charitable function, federal law treats donations to 501(c)(3) organizations as tax-deductible, a benefit not afforded 501(c)(4) organizations. Tax-deductible donations reduce an individual’s tax income liability by reducing their adjusted gross income (AGI) by the amount of the donation given. However, in order to ensure the generous tax benefits intended to encourage charitable activities are not unfairly leveraged to influence public policy, 501(c)(3) organizations are subject to stricter limitations in the amount and type of advocacy in which they can participate. According to the federal rules on nonprofits, 26 CFR §1.501(c)(3):

*“To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3)... In addition, it may not be an action organization, i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates”.*³

Thus, while 501(c)(4) organizations may participate in campaigns for political candidates and are subject to few restrictions on the extent of their lobbying efforts, 501(c)(3) organizations are strictly prohibited from participating in such campaigns and strictly limited in their ability to lobby and influence legislation. Failure to observe these rules can put organizations at risk of losing their 501(c)(3) tax status.

Federal statutes specifically bar 501(c)(3) organizations from dedicating a ‘*substantial*’ portion of their activities to attempt to influence legislation. Prof. Weitzel poses two questions regarding these legal restrictions which must be answered:

1. *What counts as influencing legislation?*
2. *What counts as substantial?*

According to Prof. Weitzel, an organization is attempting to influence legislation when it is engaged in activities encouraging either the adoption or rejection of a ‘specific, pending policy proposal’. Lobbying efforts may be directed to Congress, a State Legislature, or the public at large if a voter referendum is under consideration. By this definition, testifying at a legislative hearing to support or oppose a bill, urging constituents to contact their legislative representatives, and encouraging people to sign a petition for a ballot initiative or referendum all qualify as lobbying.

The term ‘substantial’ is not well-defined in the relevant statutes. However, Prof. Weitzel informs us that courts generally consider activities ‘substantial’ when they make up at least 10% of an organization’s overall activities. Alliance for Justice (AFJ), an organization that aims to help nonprofit organizations navigate federal restrictions and maximize their lobbying abilities, refers to this as the ‘insubstantial part test’.

However, as Table A above shows, most of the 501(c)(3) organizations have a ‘501(h) election’. Taking the 501(h) election allows 501(c)(3) organizations to be evaluated. According to AFJ, the expenditure test examines the issue solely from the perspective of dollars spent and imposing “*no limit on lobbying activities that do not require expenditures*”, thereby excluding from consideration “*factors such as the organization’s goals and success in achieving them as well as the amount of time and energy devoted to legislative matters by the charity’s board and volunteers*”, which would otherwise factor into the insubstantial part test.⁴ IRS Form 990 ‘Schedule C’ provides criteria to calculate a set dollar amount that a 501(c)(3) organization

may spend on lobbying in a given year (shown below in Table B). This amount is based on the organization’s total exempt-purpose expenditures.

Total Exempt Expenditures	Lobbying Nontaxable Allowance
Not over \$500,000	20% of total exempt expenditures
Over \$500,000 but not over \$1,000,000	\$100,000 + 15% of excess over \$500,000
Over \$1,000,000 but not over \$1,500,000	\$175,000 + 10% of excess over \$1,000,000
Over \$1,500,000 but not over \$17,000,000	\$225,000 + 5% of excess over \$1,500,000
\$17,000,000	\$1,000,000

Table B, Allowable Lobbying Expenditures from IRS Form 990 ‘Schedule C’

Finally, because of the limitations on lobbying, 501(c)(3) organizations commonly have an affiliate 501(c)(4) to carry out lobbying and advocacy. As Table A above shows, many 501(c)(3) organizations are connected with a 501(c)(4) organization through which they conduct any substantial lobbying efforts. Multiple organizations (e.g. Platte Institute, Americans for Prosperity, American Federation for Children, Holland Children’s Movement) were invited to testify on LR 384 because they operate precisely in this way. The Committee believes it is critical to understand the operational distinctions between 501(c)(3) and 501(c)(4) nonprofits, as well as the working relationships between these different types of organizations, especially in view of their tax-exempt status.

Furthermore, private foundations represent a subclass of 501(c)(3), often characterized by a small group of funders, which generally operate to issue grants to charitable organizations.⁵ Because of their narrow support bases, these organizations must observe special restrictions when disbursing grants in order to ensure that they are not funding lobbying efforts. For instance, because 501(c)(4) organizations enjoy a greater freedom to engage in lobbying activities, private foundations can only fund them through ‘expenditure responsibility’ (ER) grants, which require the foundation to conduct a pre-grant inquiry, prohibit funds from being used for lobbying, and produce a detailed report at the end of the year to demonstrate how the funds were utilized.⁶ In addition, any lobbying expenditures incurred by a private foundation are subject to a 20% excise tax intended to discourage such spending. This presents a challenge to private foundations which might seek to leverage their financial resources to influence public policy and incentivizes them to donate to 501(c)(3) charitable organizations over 501(c)(4) organizations. Unlike 501(c)(4) organizations, private foundations may fund 501(c)(3) organizations through ‘operating grants’, which afford recipients virtually unlimited discretion in spending and require far less oversight since 501(c)(3) organizations are assumed to be organized and operating for charitable purposes (as opposed to lobbying).

It is theoretically possible for a group of wealthy donors to circumvent all of the rules and regulations detailed in this section in order to unfairly leverage tax benefits to influence public policy. This could be accomplished by making or soliciting tax-deductible contributions for a private foundation to which an individual has a close connection or over which they have significant influence. This money would then be disbursed in the form of operating grants to a group of 501(c)(3) organizations which are connected to one another and the granting foundation through shared personnel. Provided that none of the recipient organizations were engaged in a substantial amount of lobbying, this process would allow millions of dollars to be funneled through nominally independent, though loosely-coordinated, 501(c)(3) organizations to achieve a significant cumulative effect on public policy.

As stated at the beginning of this report, the Committee believes that the relationship between the Sherwood and Weitz foundations and their grantees (e.g Stand for Schools, OpenSky Policy Institute, Nebraska Civic Engagement Table) is characterized by the process described above.

Chapter III: Stand For Schools

Chapter III will examine the activities and stated objectives of Stand for Schools, a Lincoln-based 501(c)(3) organization, in order to raise questions about whether Stand for Schools may be accurately characterized as an ‘action organization’. According to 26 CFR §1.501(c)(3)(ii)-(iv):

*“(ii) An organization is an **action organization** if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization:*

(a) Contacts, or urges the public to contact, members of a legislative body for the purposes of proposing, supporting, or opposing legislation; or

(b) Advocates the adoption or rejection of legislation.

(iv) An organization is an action organization if it has the following two characteristics:

(a) Its main or primary objective or objectives (as distinguished for its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and

(b) It advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered”.⁷

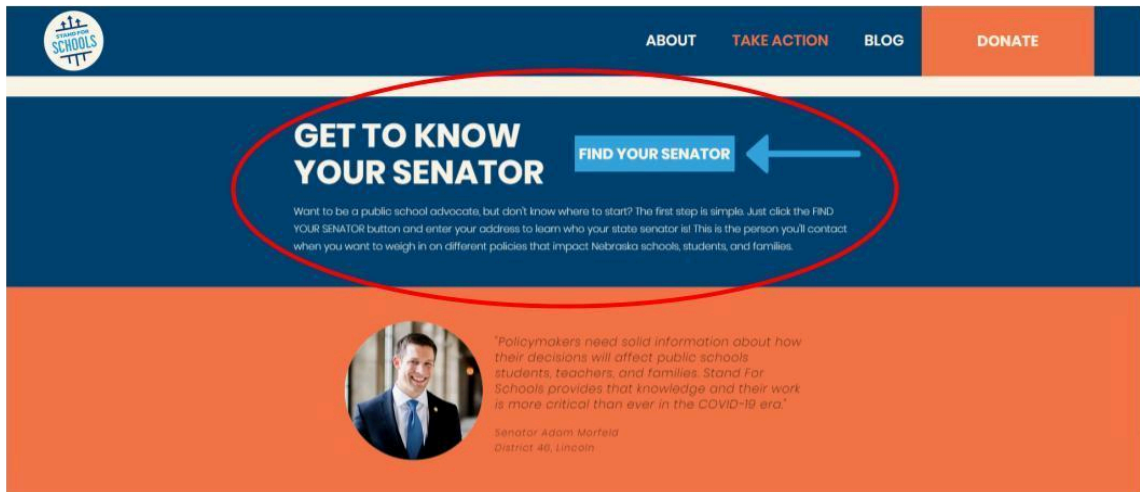
According to the Stand for Schools website: “[Stand for Schools] work[s] hard to protect Nebraska public schools from privatization and to advance evidence-based solutions to help Nebraska’s public schools better serve all children”.⁸ According to Stand for Schools’ IRS Form 990 for tax year 2022: “Stand for Schools supports Nebraska Public Schools, working to advance policies that make them stronger while opposing policies that would weaken them”.⁹ Both of these descriptions more closely align with an action organization than any of the exempt purposes outlined in 26 USC §501(c)(3) ([appendix a-3](#)) since the objectives they put forward are explicitly and inextricably linked to public policy and cannot be accomplished other than through the adoption or rejection of legislation.

The Committee believes that a thorough review of Stand for Schools’ activities indicates that it is, functionally, an action organization rather than a charity organization.

Stand For Schools Website

Across the top of Stand for Schools' website are four options (buttons): 'About', 'Take Action', 'Blog', 'Donate'. The 'About' button directs you to a short description of Nebraska public schools and then asks you to "Get Involved." The Get Involved button suggests you "TAKE ACTION" by donating to help defend public schools in Nebraska. The page also asks for your contact information and then suggests you "Find Your Senator." It then states:

"Want to be a public-school advocate, but didn't know where to start? The first step is simple. Just click the Find Your Senator button and enter your address to learn who your Senator is! This is the person you'll contact when you want to weigh in on different policies that impact Nebraska schools, students, and families".



The 'TAKE ACTION' button takes you to a page that says: "Help defend public schools in Nebraska, Donate."



Stand for Schools goes on:

“Since 2016, Stand for Schools has been a leading voice in Nebraska Educational policy, successfully advocating against numerous school privatization schemes and for policies to help schools serve all students better.” “But each year is tougher than the last.... Nebraska’s public schools are facing ongoing challenges and increasing pressure from national school privatization groups. That means our work is more important than ever. Your donation today will help us defend and advance public education in Nebraska”.

Stand for Schools’ website also features a number of articles under the ‘BLOG’ section. A review of these articles reveals pervasive bias, an indication that the organization is engaged not in the ‘*nonpartisan analysis*’ allowed by federal law under 501(c)(3) statutes. According to the IRS instructions for Schedule C (Form 990):

*“In general, engaging in nonpartisan analysis, study, or research and making its results available to the general public or segment of members thereof, or to governmental bodies, officials, or employees isn’t considered either a direct lobbying communication or a grassroots lobbying communication. **Nonpartisan analysis, study, or research may advocate a particular position or viewpoint as long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion**” [emphasis added].¹⁰*

Many of the articles located on Stand for Schools’ website are opinion pieces or news articles originally published in Nebraska newspapers (e.g. Lincoln Journal Star, Omaha World Herald, Nebraska Examiner) and subsequently uploaded by the organization. These articles frequently target specific pieces of legislation for explicit opposition. For instance, in an article from 2020, the organization’s founder and former executive director, Ann Hunter-Pirtle, states that this is a time for “*bold thinking*,” which begins with “*rejecting school privatization, beginning with LB 1202*”.¹¹ Another article, written in opposition to LB 670, aims at influencing public opinion with the following statement: “*Any Nebraskan who supports property tax reform should oppose school privatization*”.¹² In another example from 2018: “*Instead of advancing LB 295, Nebraska needs to fully fund its excellent public schools. Continued commitment from state and local leaders will help ensure our state’s bright future by investing in the next generation of Nebraskans*”.¹³

In addition to these statements, Stand for Schools assures readers that it will “*keep fighting against school privatization schemes*”.¹⁴ When Stand for Schools hired Dunixi Guereca to be their new executive director in 2022, the organization stated: “*Like Ann [Hunter-Pirtle], Dunixi believes an important part of advancing public education in Nebraska is to oppose legislative efforts to privatize public education*’”.¹⁵ After the passage of LB 754 by the Nebraska Legislature, Stand for Schools posted an article announcing their intention to participate in a

large-scale referendum effort to repeal the bill: *“Together with the Support Our Schools Nebraska coalition, we will work to put LB 753 on the 2024 ballot and ensure voters’ voices are heard: Not in Nebraska”*.¹⁶

However, despite Stand for Schools’ stated goal of supporting policies that strengthen public schools, the organization’s website and other channels of communication are conspicuously silent on the passage of major bills which increased funding for public education to improve student outcomes. For instance, Stand for Schools was silent when the Legislature passed the Nebraska Reading Improvement Act in 2018 (LB 1081) which allocated over \$9,000,000 to Nebraska Department of Education (NDE) over fiscal years 2017-18 and 2018-19 to fund its mandate for schools to test all K-3 students for reading proficiency three times per year. In 2024, the Legislature updated the Nebraska Reading Improvement Act with language to appropriate \$6,000,000 over the course of three years (fiscal years 2024-25, 2025-26, 2026,27) for NDE to *“develop and implement a professional learning system to help provide sustained professional learning and training regarding evidence-based reading instruction for teachers who teach children from four years of age through third grade”*.¹⁷

Statements like those cited here are not characteristic of the *‘nonpartisan analysis, study, or research’* allowable under federal tax statutes. While advocating for one viewpoint over another does not necessarily constitute either direct or grassroots lobbying communication, the articles published by Stand for Schools frequently argue against particular proposed acts of legislation without providing a *‘full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion’*.¹⁸ These articles present little in the way of statistical information or substantive research findings, which one would expect to find in nonpartisan analysis intended to inform the public about a particular issue.

Importantly, these do not appear to be isolated instances or aberrations, but a consistent pattern of behavior. Furthermore, when considered together and within the broader context of statements made by the organization, including those made in these and other articles, the examples cited here strongly suggest that Stand for Schools comprehends itself as an organization: (1) whose primary objective(s) can only be accomplished through legislation or the defeat of legislation and (2) that is engaged, both directly and indirectly, in a political campaign (e.g. ballot initiative, referendum). In other words, Stand for Schools appears to see itself as an action organization.

This self-understanding does not merely appear in the Stand for Schools’ published words, but is born out in the organization’s activities, as the remainder of this chapter will demonstrate.

Stand For Schools Lobbying Activities: The Unicameral

Since Stand for Schools’ creation in 2016, they have maintained a consistent attendance record with the Nebraska Legislature, testifying at numerous bill hearings. Table C shows the number of times that Stand for Schools has appeared at Legislative hearings since 2017.

Legislature Biennium	Opponent Count	Proponent Count	Neutral Count	Total
105th (2017-2018)	11	7	0	18
106th (2019-2020)	5	9	0	14
107th (2021-2022)	19	0	0	19
108th (2023-2024)	16	13	0	29

Table C, ‘Stand for Schools Total Attendance at Hearings’

Although the Committee has been unable to view Stand for Schools’ IRS Form 990 for 2023, reporting to the Nebraska Accountability and Disclosure Commission (NADC) shows the organization paid \$33,680 in compensation for lobbying services, including \$24,999 to lobbying firm Mueller Robak. Reporting to NADC for 2024 indicates that Stand for Schools paid \$25,660 for lobbying services in the first two quarters alone. Trends from previous years predict this sum to grow significantly before the end of the year (see [appendix a-4](#) for 2017-2024 breakdown of lobbying expenditures).

Stand for Schools also actively lobbies outside of the hearing room of the Legislature. In 2017, the Nebraska Education Collaboration (NEC) was created to forward the interests of Nebraska public schools.¹⁹ Ann Hunter-Pirtle, executive director of Stand for Schools at the time, stated: *“The purpose of the collaboration is to use and leverage each other’s expertise.”* A Lincoln Journal Star article on the matter referred to Stand for Schools as *“a nonprofit organization that advocates for public schools and against privatization efforts.”* NEC members include (most recent NEC statements do not include Nebraska Department of Education, First Five Nebraska, Beyond School Bells, or Voices for Children; [appendix a-5](#) for example):

1. Nebraska Department of Education
2. Nebraska Council of School Administrators - 501(c)(6)
3. Nebraska State Education Association - 501(c)(5)
4. Schools Taking Action for Nebraska Childrens’ Education

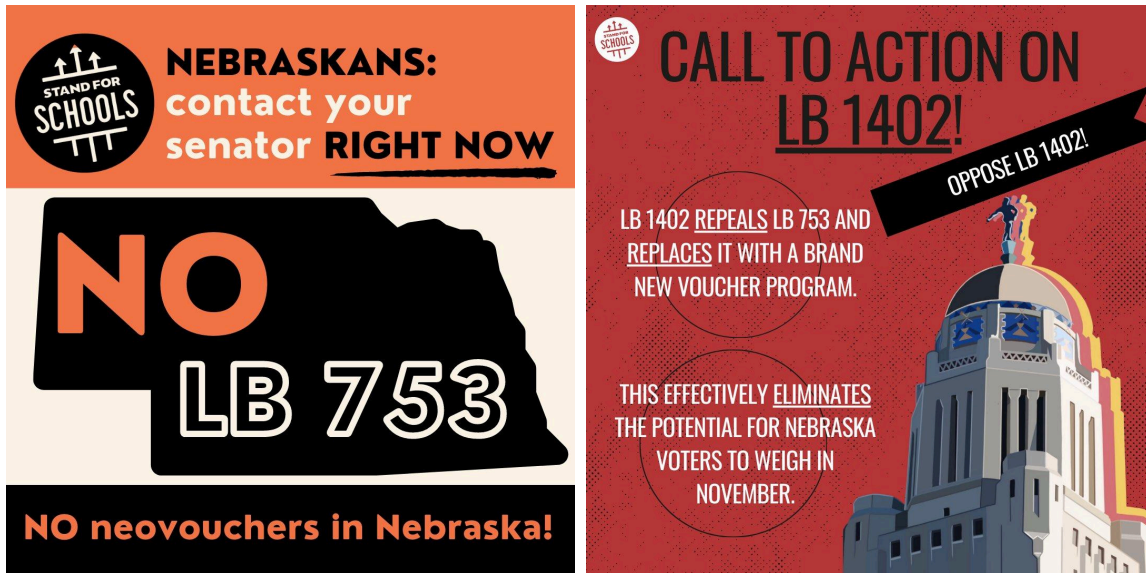
5. Greater Nebraska Schools Association - 501(c)(6)
6. Nebraska Rural and Community Schools Association - 501(c)(4)
7. Educational Service Units Coordinating Council
8. Holland Children's Movement - 501(c)(4)
9. First Five Nebraska - 501(c)(3)
10. Voices for Children in Nebraska - 501(c)(3)
11. Beyond School Bells - 501(c)(3)
12. Stand for Schools - 501(c)(3)

Historically, NEC has supported and opposed proposed legislation. These positions included Stand for Schools as a member. For example, in 2017 the NEC supported LB 246, which was a bill proposed to allow schools to exceed spending limits for before-and-after-school programs. In 2020, the NEC opposed LB 1106, which would have changed the requirements for the passage of bond issues with special elections, claiming it would do “*irreparable harm to the learning opportunities of children statewide.*” During the 2024 Special Session, NEC again came out in opposition to the proposed property tax relief bills advanced by the Committee.

In a 2022 article, Scottsbluff Star Herald reported that Stand for Schools visited public schools with State Senator John Stinner to “*get an idea of what public education in Nebraska looks like at the local school level, so they can bring positive stories or an understanding of educational needs back to state legislators.*”²⁰ In the same article, Ann Hunter-Pirtle stated: “*It also means, for us, opposing school privatization efforts, so vouchers, scholarship tax credits, charter schools, things that would divert funding from public schools toward other options.*”

Stand for Schools has also engaged in aggressive grassroots lobbying efforts through their social media accounts on Twitter and Facebook. As two school choice bills (LB 753, LB 1402) were being debated by the Legislature in 2023 and 2024, respectively, Stand for Schools made dozens of social media posts across multiple platforms urging constituents: “*Contact your senator NOW, and urge them to oppose this bill*” (see figures 4 and 5 below). Stand for Schools has also employed their social media accounts to engage in direct lobbying in order to promote multiple petitions in Nebraska (see next subsection, ‘Stand for Schools Involvement with Petitions’).

Stand for Schools has also earned accolades as an advocacy organization. In 2022, Stand for Schools received the Phyllis Bush Award for Grassroots Organizing by the Annual Network for Public Education National Conference. “*Stand for Schools has been instrumental in staving off privatization efforts in Nebraska... helping defeat several scholarship tax credit bills in the legislature.*”²¹



Figures 4 (left) and 5 (right) were taken from the Stand for Schools Twitter page.

Stand For Schools Lobbying: Petitions and Referendums

In addition to the multiple legislative interactions and advocacy activities, records from Nebraska Accountability and Disclosure Commission indicate that Stand for Schools has been very active with Support Our Schools referendum initiatives. Importantly, engaging in referendums is considered a form of *direct lobbying* by the IRS. According to Meg Mikolajczyk of Nebraska Civic Engagement Table: “*The interesting thing about [engaging on] ballot measures is it's actually lobbying... because we are actually asking citizens, who stand in the shoes of a policymaker, to take an action on legislation*”.²² This is confirmed by AFJ: “*Attempts to influence public opinion on referenda and ballot initiatives are considered direct lobbying... from the time the first petitions are circulated to obtain signatures*”.²³ This includes canvassing and soliciting signatures.²⁴ In 2023, Stand for Schools donated \$34,977 to the Support Our Schools initiative campaign to repeal LB753. As of July 30, 2024 Stand for Schools donations to the Support Our Schools initiative campaign to repeal LB 1402 totaled \$35,032. These donations were in the form of in-kind contributions of staff time, which social media indicates were spent soliciting signatures.

However, Stand for Schools’ direct lobbying involvement with referendums are not limited to in-kind contributions or canvassing. During the June 6th, 2023 kickoff of the Support Our Schools petition campaign, Dunixi Guereca, executive director of Stand for Schools and current candidate for Legislature, was present and delivered a speech decrying LB 753, a school choice bill passed by the Legislature and signed into law by Governor Pillen in 2023.²⁵ Throughout 2023 and 2024, Stand for Schools also engaged in social media efforts to promote two statewide petitions campaigns for referendums on LB 753 and LB 1402, respectively.

These efforts included approximately two dozen posts across Facebook and Twitter advertising and urging people to sign the petitions. Posts on Stand for Schools social media also make clear that organization staff, including executive director, Dunixi Guereca, were directly involved in collecting signatures.

All of these activities are considered direct lobbying.

Conclusion

After substantial inquiry, the Committee must draw the preliminary conclusion that Stand for Schools operates effectively as an action organization. This is entirely incompatible with their current status as a 501(c)(3) charity organization and entails an undue loss of tax revenue to the State of Nebraska. Lobby activities engaged in by Stand for Schools include:

1. Urging Nebraskans to contact and lobby their legislative representatives
2. Urging Nebraskans to sign petitions for referendums
3. Supporting ballot initiatives with in-kind contributions of staff time
4. Writing and publishing articles urging the rejection of specific legislation
5. Testifying before legislative committees to support or oppose legislation

In addition to these specific activities, Stand for Schools apparently understands its objectives as intrinsically connected to the adoption or rejection of legislation (e.g. so-called ‘school privatization’), as evidenced by statements made by the organization and cited in this report.

While lobbying expenditures reported on Stand for Schools’ IRS Form 990 ‘Schedule C’ have been consistently less than the allowable 20% of total exempt expenditures, the Committee believes that the 501(h) expenditure test fails to provide an adequate account of the organization’s involvement in attempts to influence legislation. In fact, the Committee is compelled to pose the question: in what activities is Stand for Schools substantially involved in *besides* lobbying? In view of these facts, the Committee believes that serious questions must be raised about the propriety of Stand for Schools’ status as a charitable organization.

Chapter IV: Opensky Policy Institute

This report will also highlight OpenSky Policy Institute, a 501(c)(3) and “*non-partisan organization that advocates for a strong Nebraska through clear fiscal research and analysis*”.²⁶ According to the organization’s IRS Form 990, the objective of OpenSky Policy Institute is to “*improve opportunities for every Nebraskan by providing impartial and precise research, analysis, education and leadership*”.²⁷

OpenSky Policy Institute advertises itself to be a non-partisan organization that conducts fiscal analysis for Nebraskans.

‘Nonpartisan analysis’ is defined in the instructions for IRS Form 990 Schedule C as follows:

“In general, engaging in nonpartisan analysis, study, or research and making its results available to the general public or segment of members thereof, or to governmental bodies, officials, or employees isn’t considered either a direct lobbying communication or a grassroots lobbying communication. Nonpartisan analysis, study, or research may advocate a particular position or viewpoint as long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion (emphasis added)”.²⁸

OpenSky Policy Institute appears, *prima facie*, to abide by these IRS guidelines for nonpartisan analysis or research. The organization conducts research and produces articles and reports on fiscal policy in Nebraska. However, an analysis of the organization’s activities inspire reasonable concerns about the extent of its involvement in lobbying activities.

For instance, from 2016 to 2024, representatives from OpenSky Policy Institute have testified on legislative bills at least 303 times and submitted 90 letters for the record. Under IRS guidelines, each of these appearances is an instance of direct lobbying. OpenSky Policy Institute’s IRS Form 990 filing from 2022 indicates that their lobbying expenditures were \$128,951, and the organization’s four-year average lobbying expenditures from 2019 to 2022 were \$101,254.

According to NADC reporting, compensation for lobbying services on behalf of OpenSky Policy Institute saw a dramatic decrease (35-45%) following 2020 despite the volume of direct lobbying before the legislature remaining consistent. This appears to have been facilitated by a transition away from contracting for services with Husch Blackwell toward representation by in-house personnel, who are apparently reimbursed at a much lower rate. Accordingly, many appearances before the legislature were made by the organization’s directors (e.g. Rebecca Firestone, Renee Fry, Connie Knoche) rather than by professional lobbyists. While OpenSky Policy Institute has made the 501(h) election to evaluate its lobbying activities on the basis of

expenditures, this raises legitimate questions over whether expenditures are a reliable indicator of the extent of the organization's involvement in lobbying.

In addition to this, OpenSky Policy Institute made significant contributions to Support our Schools petition drives in 2023 and 2024. In-kind contributions of staff time, petition and signature collection, and mileage from the organization to the referendum efforts totaled \$132,568 and \$99,542 in 2023 and 2024, respectively. These all qualify as direct lobbying expenditures. Thus, assuming OpenSky Policy Institute spent only \$46,208 to directly lobby the state legislature in 2023 (as reported to NADC), the organization's lobbying expenditures for that year would equal \$178,776 (3% under previous year's expenditure limit).

In view of these facts, the Committee feels compelled to call attention to the lobbying activities of OpenSky Policy Institute.

Chapter V: Connections Between Organizations

As stated in the introduction, the Sherwood Foundation states on its website that it does not fund “lobbying or attempting to influence legislation”. However, this claim does not sustain serious inquiry, as this chapter will demonstrate. In fact, multiple 501(c)(3) organizations engaged in advocacy/lobbying are deeply connected to the Sherwood and Weitz foundations through (1) common donors and (2) shared personnel.

Common Donors

Stand for Schools, OpenSky Policy Institute, Nebraska Civic Engagement Table, Nebraska Appleseed, and Women’s Fund of Greater Omaha each receive a substantial portion of their funding from three private foundations: Sherwood Foundation, Weitz Family Foundation, and the Holland Foundation. It is important to include the Holland Foundation in these considerations because they have and continue to share board members with Sherwood and Weitz Family foundations.

The funds contributed by Sherwood, Weitz Family, and Holland foundations to the aforementioned organizations in 2022 are displayed on Table [blank] below:

Organization	Contributions (Sherwood + Weitz + Holland)	Percentage of Organization’s Revenue
Stand for Schools	\$300,000	86%*
OpenSky Policy Institute	\$650,000	60%
Nebraska Civic Engagement Table	\$994,333	72%
Nebraska Appleseed	\$1,175,047	33%
Civic Nebraska	\$1,136,505	33%
Women’s Fund of Greater Omaha	\$4,156,118	58%

* Stand for Schools figures taken from 2021 as there is a serious discrepancy between the revenue reported by the organization and grants paid by Sherwood and Holland foundations.

Table C, ‘Contributions from Sherwood, WeitzFamily, and Holland Foundations’

In years 2023 and 2024, the 501(c)(3) organizations listed here contributed \$757,751 to four petition drives: (1) Protect Our Rights, (2) Nebraskans for Paid Sick Leave, and (3)-(4)

Support Our Schools referendum efforts in 2023 and 2024 (see [appendix a-6](#) for breakdown by organization).

From these facts, it is clear that the 501(c)(3) organizations discussed in this chapter receive substantial amounts of funding from a narrow group of private foundations. This naturally raises serious questions about the degree of influence these foundations might exert over their various grantees, especially given the extreme reliance of organizations such as Stand for Schools (86%), Nebraska Civic Engagement Table (72%), and OpenSky Policy Institute (60%).

Shared Personnel

Concerns about the influence of this small group of donors are multiplied by the sharing of personnel, including directors and board members, between both granting organizations and grantees. For example, Wallace Weitz has served as president and treasurer of Weitz Family Foundation since its inception, while also sitting on the boards of Sherwood Foundation, alongside Susan Buffett (until 2022), and Holland Foundation (to present). Wallace Weitz' daughter, Katie Weitz, served as executive director of Weitz Family Foundation as well as a board member of Holland Foundation. This suggests a degree of coordination between the interests of the heads of these organizations.

In addition to serving as president of Weitz Family Foundation, Katie Weitz served as president of Nebraska Civic Engagement Table from 2017 to 2022. Upon her departure from the organization, she was immediately succeeded in that role by Robia Qasimyar, who was hired to serve as a 'program associate' at Weitz Family Foundation in the same year. Likewise, Jerry Bexten worked for Sherwood Foundation as 'Director of Education Initiatives' from 2006 to 2021, as well as a director on the board of OpenSky Policy Institute (2018 to present) and president of Stand for Schools from the organization's founding (2016 to present). Bexten also briefly served as Stand for Schools' interim executive director in 2022. Kristin Williams also served as 'Director of Community Initiatives' at Sherwood Foundation (2009 to 2020) in addition to sitting on the board of directors for OpenSky Policy Institute from 2011 to 2017.

Among the 501(c)(3) grantees, Tammy Day sat on the board of directors at Stand for Schools (2016 to 2022) before becoming board member at OpenSky Policy Institute (2024 to present). Daniel Russell, who began on the board of directors of Stand for Schools in 2022, worked as an 'implementation consultant' before being promoted to 'Director of Professional Development' at Buffett Early Childhood Institute (2019 to 2021), which indirectly receives over \$1,000,000 annually from Sherwood Foundation through Buffett Early Childhood Fund and the University of Nebraska.

In addition, Omaid Zabih chairs Civic Nebraska's board of directors as well as serving as 'Strategy Senior Director' of Nebraska Appleseed. Furthermore, Elizabeth Lopez Everett is vice chair of Civic Nebraska's board of directors and deputy director of First Five Nebraska, which also receives millions in annual funding indirectly from Sherwood through Buffett Early Childhood Fund, the Nebraska Children & Families Foundation, and Start Early organizations.

There are also key personnel connections between the aforementioned grantees and certain 501(c)(4) organizations that are key players in recent petition drives in Nebraska, with contributions totaling at least \$780,863 since 2023. Meg Mikolajczk, who is the current executive director of Nebraska Civic Engagement Table, is listed on the Nebraska Secretary of State's registry as the filing agent for Second House Collaborative, which has contributed a combined \$555,363 to petitions for abortion, paid sick leave, and against school choice. In addition, Daniel Russell, who has served as deputy executive director at Stand for Schools since 2022, is listed as the filing agent for Vote for Schools, which has contributed \$225,500 to the Support Our Schools petitions of 2023 and 2024. Despite their sizable role in advocacy/lobbying activities in Nebraska over the past two years, there is virtually no publicly available information about either organization. Second House Collaborative's only online presence is a rudimentary fundraising site to solicit donations.

While there are no observable financial links between these 501(c)(4) organizations and Sherwood, Weitz Family, and Holland foundations, there are possible ways that Second House Collaborative and Vote for Schools might be linked to the funding network discussed here. For example, a 501(c)(3) organization can, under certain conditions, loan money to a 501(c)(4) organization without it counting against the crediting organization's lobbying expenditure limit, regardless of how the loaned funds are used.²⁹

Conclusion

All of this suffices to show that the grantee organizations discussed here are substantially reliant on a small group of donors (i.e. Sherwood, Weitz Family, Holland foundations) and personnel. Because these 501(c)(3) organizations are engaged in a significant amount of advocacy/lobbying on a narrow range of issues, the Committee has serious questions about the degree of coordination between them and their wealthy donors. Furthermore, the Committee concludes that it is eminently plausible that Sherwood, Weitz Family, and Holland foundations employ tax-exempt grant money to exert significant influence over several Nebraska-based 501(c)(3) organizations engaged in advocacy/lobbying (see [appendix a-7](#) for a detailed breakdown of shared board members and employees).

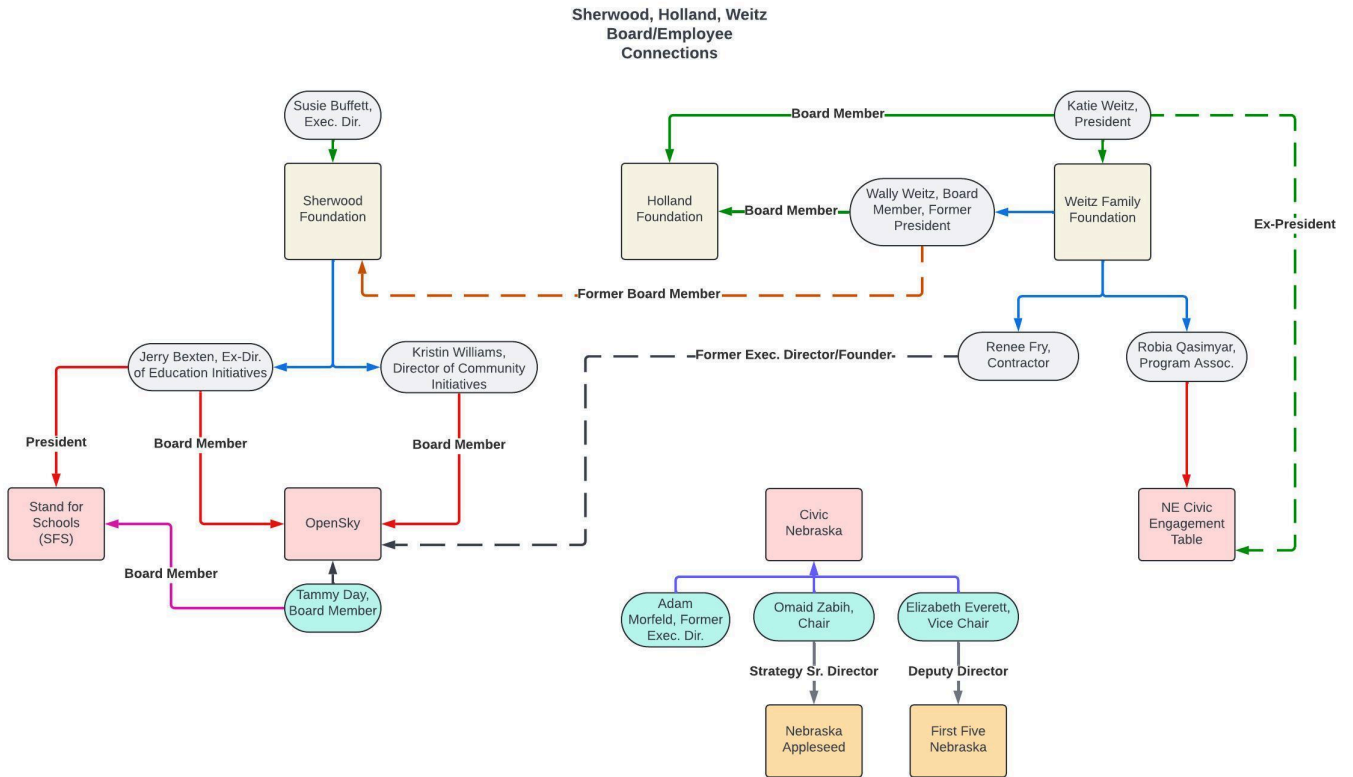


Figure 6 (above): Sherwood, Holland, and Weitz Board/Employee Connections to other 501(c)(3) organizations.

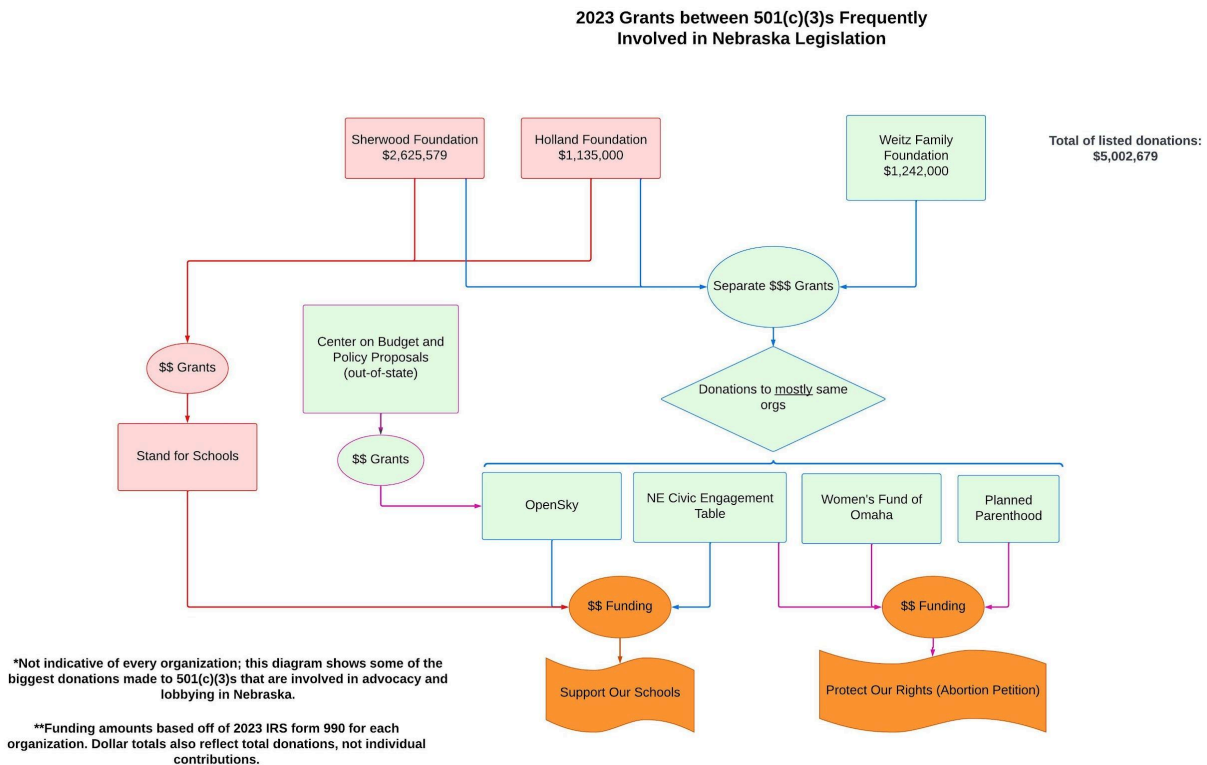


Figure 7 (above): Sherwood, Holland, and Weitz monetary connections to other 501(c)(3) orgs and petitions.

Report Conclusion

Committee Findings

In view of the information contained in this report, the Committee has drawn several conclusions stated in the Introduction of this document, which are as follows:

1. 501(c)(3) organizations funded by Sherwood and Weitz Family foundations, such as Stand for Schools, OpenSky Policy Institute, Nebraska Civic Engagement Table, and Civic Nebraska are engaged in advocacy/lobbying to attempt to influence legislation.
2. Stand for Schools is substantially involved in advocacy/lobbying, such that they should be classified as an ‘action organization’, which is incompatible with the organization’s 501(c)(3) status. In addition, the activities of OpenSky Policy Institute raise serious questions around the extent of the organization’s involvement in advocacy/lobbying.
3. The Sherwood and Weitz Family foundations work through the aforementioned organizations to influence public policy with nontaxable funds intended for charitable purposes.

However, despite the clear and singular influence that private foundations of a few Nebraska families, such as the Sherwood and Weitz Family foundations, have over public policy in Nebraska through the methods described in this report, the activities of these organizations, as well as those they fund and influence, are underreported and often pass unremarked-upon. The Committee must state in unambiguous terms: the findings contained in this report are alarming and raise serious concerns about the often-unnoticed influence of the Sherwood and Weitz Family foundations on Nebraska’s democratic processes, especially when it is achieved at a cost to the state by using nontaxable funds intended for charitable purposes.

Recommendations

Having presented these findings, the Committee respectfully submits for consideration the following recommendations:

1. Revenue Committee: Further inquiry into the influence of the Sherwood, Weitz Family, and other private foundations through 501(c)(3) organizations engaged in advocacy/lobbying, as well as the activities of such organizations.
2. Legislature: Reform of NADC lobbying reporting requirements; specifically, a requirement for lobbyists/principals to report lobbying activities in real-time (e.g. within 48 hours of activity) rather than quarterly.
3. Legislature: Remove state tax benefits for 501(c)(3) organizations whose advocacy/lobbying activities comprise 10% or more of the organization’s activities or whose objectives can only be achieved through the legislation or the defeat of legislation.

Appendix A-1: Letters of Response to Invitation to Testify Before Revenue Committee on LR 384

Organization Invited to Testify Pursuant to LR384	Non-Profit Status	Invitation Recipient	Invitation Status
<i>OpenSky Policy Institute</i>	501(c)(3) + 501(h) elected	Dr. Rebecca Firestone	Invited; Dr. Firestone accepted; Katie Joseph (Cline Williams) responded to decline invitation and rescind Dr. Firestone's acceptance on behalf of OpenSky (see attached letters)
<i>Stand For Schools</i>	501(c)(3) + 501(h) elected	Dunixi Guereca	Invited; declined invitation via email (see attached letter)
<i>Sherwood Foundation</i>	501(c)(3) private foundation	Susan Buffett	Invited; declined invitation via email; directed Sen. Linehan's office to Alliance For Justice (see attached letter)
<i>Alliance For Justice</i>	501(c)(3) + 501(h) elected	Quyen Tu	Invited; declined invitation via email (see attached letter)
<i>Weitz Family Foundation</i>	501(c)(3) private foundation	Katie Weitz	Invited; declined invitation via email (see attached letter)
<i>Holland Children's Movement</i> + <i>Holland Children's Institute</i> (affiliate) + <i>Holland Foundation</i> (affiliate)	501(c)(4) 501(c)(3) private foundation 501(c)(3) private foundation	Mary Ann Holland	Invited; Holland Children's Movement requested clarification via email; clarification provided; Sen. Linehan's office followed up via phone twice; correspondences not returned
<i>Platte Institute</i>	501(c)(3)	Jim Vokal	Invited; testifying
<i>Americans for Prosperity</i> + <i>Americans For Prosperity Foundation</i> (affiliate)	501(c)(4) 501(c)(3) + 501(h) elected	John Gage	Invited; testifying
<i>American Federation for Children</i> + <i>American Federation for Children Growth Fund</i> (affiliate)	501(c)(4) 501(c)(3) + 501(h) elected	Ryan Cantrell	Invited; unable to attend (see attached letter)

9/5/24, 12:56 PM

Nebraska Legislature Mail - LR 384 Invitation to Testify



Nebraska
Legislature

Lou Ann Linehan <llinehan@leg.ne.gov>

LR 384 Invitation to Testify

Rebecca Firestone <rfirestone@openskypolicy.org>

Fri, Aug 2, 2024 at 10:45 AM

To: Lou Ann Linehan <llinehan@leg.ne.gov>

Cc: Ryan Yang <ryang@leg.ne.gov>, Linda Schmidt <lschmidt@leg.ne.gov>, Joey Adler Ruane <jadlerruane@openskypolicy.org>

Dear Senator Linehan,

Thanks for your invitation to testify on your LR 384, and I'm delighted to accept. We'll look forward to additional information from your staff.

best regards,

Rebecca Firestone (she/her), ScD, MPH
Executive Director

open sky POLICY INSTITUTE

Lincoln, Nebraska

W: (402) 438-0382 | C: (402) 517-5103

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www.openskypolicy.org

[Quoted text hidden]

9/5/24, 12:17 PM

Nebraska Legislature Mail - LR 384 hearings - Invitation to OpenSky Policy Institute



Nebraska
Legislature

Lou Ann Linehan <lilinehan@leg.ne.gov>

LR 384 hearings - invitation to OpenSky Policy Institute

1 message

Katie A. Joseph <KJoseph@clinewilliams.com>
To: "lilinehan@leg.ne.gov" <lilinehan@leg.ne.gov>
Cc: "ryang@leg.ne.gov" <ryang@leg.ne.gov>

Fri, Aug 30, 2024 at 8:03 AM

Dear Senator Linehan,

Please find attached a letter sent on behalf of our client, OpenSky Policy Institute. For the reasons explained in the letter, OpenSky respectfully declines the invitation to testify at the upcoming hearings on LR 384 and respectfully rescinds Dr. Firestone's prior acceptance of the same.

Although OpenSky's representatives are not available to testify at this hearing, the organization appreciates the ongoing opportunity to be of other assistance to the Revenue Committee on Nebraska fiscal policy matters.

You or your staff are welcome to contact us if you have questions about the letter.

Sincerely,

Katie Joseph

CLINE WILLIAMS

KATIE A. JOSEPH | PARTNER

CLINE WILLIAMS WRIGHT JOHNSON & OLDFATHER, L.L.P.
233 South 13th Street | 1900 US Bank Bldg | Lincoln, NE 68508
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Letter re OpenSky Invitation - LR 384 Hearing - 8.30.2024.pdf
427K

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RICHARD F. GARDEN, JR.
SUZAN K. SAPP
KEVIN J. SCHNEIDER
ROCHELLE A. MULLEN
TRENTEN P. BAUSCH
MICHAEL C. FALLESEN
RICHARD P. JEFFRIES
TRENT R. SIDERS
ANDRE E. BARRY
DAVID I. ROUTH
JASON B. YUNGTUM
MEGAN S. WRIGHT
THERESA D. KOLLER
AUSTIN L. MCKILLIP
KEITH T. PETERS
ANDREW R. WILLIS
TARA A. STINGLEY
SEAN D. WHITE
MICHELLE L. STORIOUS
MICHAEL J. WHALEY
RUSSELL J. SPRAGUE
HENRY L. WIEDRICH
DANIEL W. OLDENBURG
ADAM W. BARNEY
BENNIE A. KUEHNER
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CRISTIN M. MCGARRY
KATIE A. JOSEPH
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August 30, 2024

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ISAIAH J. FROHLING
JESSICA K. ROBINSON
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DONALD L. ERFTMIER, III

OF COUNSEL:

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L. BRUCE WRIGHT (INACTIVE)
ROBERT J. ROUTH
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JOHN C. MILLS
THOMAS C. HUSTON
DON R. JANSSEN
GARY R. BATHENHORST
RENEE A. EVELAND
DAVID O. COLVER

ATTORNEYS ADMITTED IN COLORADO ONLY

Via email to llinehan@leg.ne.gov

The Hon. Sen. Lou Ann Linehan
P.O. Box 94604
Lincoln, NE 68509

Re: Invitation to OpenSky to testify at LR 384 hearings

Dear Senator Linehan:

We represent OpenSky Policy Institute ("OpenSky"). For the reasons explained below, we write on its behalf to respectfully decline your invitation to testify at the Revenue Committee hearings on LR 384 on September 5th and 6th. We also respectfully rescind, on OpenSky's behalf, Dr. Firestone's prior acceptance of your invitation for the same reasons.

As you know, OpenSky focuses primarily on fiscal policy at the Nebraska state level. OpenSky welcomes the opportunity to testify before the Revenue Committee on such matters, as it has many times in the past. Your invitation indicates that the hearings will focus on federal laws addressing how nonprofits may use their funding and how nonprofits function in Nebraska. That broad subject matter falls outside of OpenSky's expertise. Providing substantive testimony on the topic would require significant research and preparation in a technical, complex area of federal law not encompassed by OpenSky's mission. Even if it were within OpenSky's mission to provide expertise on this topic, the organization has not had the time necessary to prepare based on the instructions provided. Because OpenSky's mission includes a commitment to providing facts-based information to the legislature and other stakeholders, the organization is intent on staying within the bounds of its scope of expertise on this and all matters.

Your invitation cites passages from regulations implementing Section 501(c)(3) of the federal Internal Revenue Code (the "Code"), codified in Title 26 of the United States Code. At OpenSky's request, we provide the following general information about the limitations that apply to organizations exempt from tax under Code Section 501(c)(3) and that are permitted to make the expenditure test election (see Code Section 501(h)(4) for a listing).

- **Prohibition on political campaign activity.** Code Section 501(c)(3) prohibits any participation or intervention in a political campaign on behalf of (or in opposition to) any candidate for public office. Implementing regulations clarify that a "candidate for

12910 PERCE STREET
SUITE 200
OMAHA, NE 68144-1105
(402) 397-1700

1207 M STREET
P.O. BOX 510
AURORA, NE 68818
(402) 694-6314

221 E. MOUNTAIN AVENUE
SUITE 240
FORT COLLINS, CO 80524
(970) 221-2637

131 W. EMERSON STREET
HOLYOKE, CO 80734
(970) 854-2264

Hon. Lou Ann Linehan
August 30, 2024
Page 2

public office" means an individual who is a contestant for a federal, state, or local elective public office. 26 C.F.R. § 1.501(c)(3)-1(c)(3)(iii).

- **Permissible attempts to influence legislation.** Code Section 501(c)(3) permits attempts to influence legislation, so long as they do not constitute a "substantial part" of an organization's activities. "Legislation" includes actions by the public in a referendum, initiative, constitutional amendment, or similar procedure. 26 C.F.R. § 1.501(c)(3)-1(c)(3)(ii). Unless an organization elects the expenditure test described below, the Internal Revenue Service evaluates the substantiality of its attempts to influence legislation based on a variety of factors, including time and expenditures devoted to the activity.

Your invitation of August 1, 2024 reproduces Treasury Regulations that distinguish between an organization that meets Code Section 501(c)(3)'s requirements and a so-called "action" organization, which fails to meet those requirements due to involvement in campaigns for (or against) candidates for public office, or engaging in attempts to influence legislation which are substantial. Two passages not quoted in the invitation add important nuance to that definition, explained briefly below.

- **Expenditure test.** Certain 501(c)(3) organizations may elect to have their attempts to influence legislation measured on the basis of expenditures pursuant to Code Section 501(h) by filing Form 5768 with the Internal Revenue Service. When an organization's expenditures remain within the relevant limits under that test, the organization does not constitute an "action" organization by reasons of its attempts to influence legislation, and its exemption will not be revoked on that basis. 26 C.F.R. § 1.501(c)(3)-1(c)(3)(ii).
- **Nonpartisan policy analysis, study, and research.** A 501(c)(3) organization may engage in nonpartisan analysis, study, and research on issues relating to its mission, and may make the results available to the public, all without being considered an "action" organization. 26 C.F.R. § 1.501(c)(3)-1(c)(3)(iv).

We hope this general information is helpful to you and the Revenue Committee. We note that the IRS's website (www.irs.gov) has several helpful resources on this topic.

Although OpenSky's representatives are not available to testify at the hearing on LR 384, OpenSky appreciates the ongoing opportunity to be of other assistance to the Revenue Committee on Nebraska fiscal policy matters. If you have questions about this letter, you or your staff are welcome to contact us.

Sincerely,



Katie A. Joseph

Cc Ryan Yang (via email)



Advancing public
education in Nebraska.

STAND FOR SCHOOLS

P.O. Box 96166
Lincoln, NE 68509

(402) 413-0162
info@standforschools.org

Senator Lou Ann Linehan
Room 1116
PO Box 94604
Lincoln, NE 68509

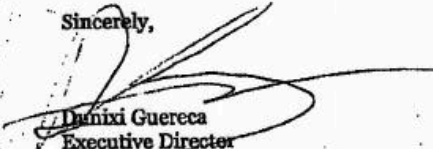
Via Email

September 2, 2024

Dear Senator Linehan,

I have received your letter, dated August 1, 2024, containing your invitation to testify on LR 384 to help the Revenue Committee understand the federal tax laws applicable to 501(c)(3) organizations related to lobbying and political campaign intervention. While we appreciate the invitation, I must respectfully decline. Since its inception, Stand For Schools has relied upon the advice of tax attorneys, accountants, and other professional advisors to remain in compliance with the laws applicable to our organization, including the Treasury Regulations cited in your invitation. Thank you.

Sincerely,



Danixi Guereca
Executive Director
Stand For Schools

9/5/24, 12:24 PM

Nebraska Legislature Mail - LR 384



Lou Ann Linehan <llinehan@leg.ne.gov>

LR 384

Susie Buffett <susie@sherwoodfoundation.org>

Tue, Aug 20, 2024 at 3:14 PM

To: "llinehan@leg.ne.gov" <llinehan@leg.ne.gov>

Cc: "ryang@leg.ne.gov" <ryang@leg.ne.gov>, "lschmidt@leg.ne.gov" <lschmidt@leg.ne.gov>

Dear Senator Linehan,

I am in receipt of your invitation dated August 1, 2024 to testify at the hearing on LR 384. We appreciate your efforts to understand the provisions of relevant federal laws, and their application in Nebraska.

While neither I nor an appropriate designee are able to attend, upon your request I am happy to provide you contact information for experts on nonprofit organizations and the way nonprofits can or cannot use their funding under applicable federal laws.

In complying with such laws, the Sherwood Foundation has made grants totaling \$2,323,547,040 to a wide-ranging and diverse group of recipients in more than half of Nebraska counties over the last 18 years. We are extremely proud of our ongoing efforts and the benefits afforded to the citizens in every legislative district of our state.

We are not in a position to provide an opinion as to how other nonprofits function in our state, or the intricacies of their nonprofit activities. However, if you have any questions about specific grants made by Sherwood, please let me know.

Susie

Susan Buffett

The Sherwood Foundation

808 Conagra Drive

Omaha, NE 68102

<https://mail.google.com/mail/u/1/?ik=1a8cd14532&view=pt&search=all&permmsgid=msg-f:1807938901572789916&siml=msg-f:1807938901572789916> 1/1

9/5/24, 12:17 PM

Nebraska Legislature Mail - LR 384 Invitation to Testify



Lou Ann Linehan <llinehan@leg.ne.gov>

LR 384 Invitation to Testify

Quyen Tu <quyen@afj.org>
To: Lou Ann Linehan <llinehan@leg.ne.gov>
Cc: Ryan Yang <ryang@leg.ne.gov>, Linda Schmidt <lschmidt@leg.ne.gov>

Wed, Aug 28, 2024 at 3:50 PM

Dear Senator Linehan, thank you for the invitation to testify before the Revenue Committee. Unfortunately, we have pre-existing commitments and cannot attend. You may find our publication, *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*, helpful. It contains the rules that 501(c)(3) organizations should follow when engaging in advocacy, including lobbying. The Internal Revenue Code (IRC) permits 501(c)(3) public charity lobbying, subject to lobbying limits that allow some organizations to allocate up to 20% of their annual exempt purpose expenditures to legislative advocacy. The linked guide explains how 501(c)(3) public charities can measure their lobbying limits, and it contains information about the lobbying definitions that apply to 501(c)(3) public charities via the IRC. Additionally, 501(c)(3)s are not allowed to support or oppose candidates running for public office.

Best,

Quyen



Quyen Tu (*pronounce my name*)
Legal Director, Bolder Advocacy
Alliance for Justice
quyen@afj.org | 213-225-6808
she/her/ella

Check out our *Rules of the Game* podcast.

Submit technical assistance questions online using [this form](#), email us at advocacy@afj.org, or leave us a message at 866-NP-LOBBY (866-675-6229).

<https://mail.google.com/mail/u/1/?ik=1a8cd14532&view=pt&search=all&permmsgid=msg-f:1806665935997822574&simpl=msg-f:1806665935997822574> 1/2

9/5/24, 12:17 PM

Nebraska Legislature Mail - LR 384 Invitation



Nebraska
Legislature

Lou Ann Linehan <llinehan@leg.ne.gov>

LR 384 Invitation

Katie Weitz <katie@weitzfamilyfoundation.org>

Fri, Aug 30, 2024 at 12:41 PM

To: Lou Ann Linehan <llinehan@leg.ne.gov>

Cc: Ryan Yang <ryang@leg.ne.gov>, Linda Schmidt <lschmidt@leg.ne.gov>, Amanda Forker <aforker@bairdholm.com>, Emily Nguyen <Emily@weitzfamilyfoundation.org>

Senator Linehan,

I appreciate your efforts to increase education and awareness of the very important work done by nonprofits in Nebraska. The Weitz Family Foundation is one of many nonprofits in Nebraska which serve a variety of needs in a myriad of ways. Predominantly through our annual grant application, review and awards.

This annual grant process is in full swing and our team respectfully declines your invitation at this time. Should you seek resources on the operation of nonprofits, we are happy to seek published resources that you may review.

Thank you,
Katie Weitz, PhD
President, Weitz Family Foundation

From: Lou Ann Linehan <llinehan@leg.ne.gov>

Sent: Wednesday, August 14, 2024 11:49 AM

To: Katie Weitz <katie@weitzfamilyfoundation.org>

Cc: Ryan Yang <ryang@leg.ne.gov>; Linda Schmidt <lschmidt@leg.ne.gov>

Subject: Re: LR 384 Invitation

[Quoted text hidden]



August 12, 2024

Senator Lou Ann Linehan
District 39
State Capitol
P.O. Box 94604
Lincoln, NE 68509-4604

RE: Information Testimony on LR 384

Dear Senator Linehan:

Thank you for your invitation to testify before the Revenue Committee about the intricacies of nonprofit activities in Nebraska. Regrettably, neither I nor an American Federation for Children representative will be able to attend due to scheduling conflicts.

The American Federation for Children, Inc., and its affiliated tax-exempt organizations (altogether, "AFC") sponsor education and advocacy activities related to school choice. In doing so, AFC takes great care to comply with all federal and state laws and regulations including those specific to tax-exempt organizations.

AFC is aware that the regulations applicable to such organizations may affect each type of tax-exempt organization differently. For example, AFC understands that organizations tax-exempt under Section 501(c)(3) of the Internal Revenue Code (the "Code") are prohibited from sponsoring political campaign activities but could sponsor insubstantial legislative activities such as lobbying. Whereas organizations tax-exempt under Section 501(c)(4) of the Code could sponsor political campaign activities when such activities are not their primary purpose and may sponsor unlimited lobbying activities.

We appreciate that the intricate differences among tax-exempt organizations warrant public examination and legislative study. To bring clarity to the current state of federal and state laws and regulations, it may benefit the Revenue Committee—and Nebraskans—to hear from a federal employee working in the Internal Revenue Service's Exempt Organizations Division or a private practice attorney who specializes in tax-exempt organizations.

AFC will continue to monitor the Committee's important work and looks forward to the results of the Committee's interim study.

AMERICAN FEDERATION FOR CHILDREN

Ryan Cantrell
Vice President of Government Affairs

T 214-525-7089

5950 Berkshire Lane
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federationforchildren.org

**Appendix A-2: Professor Paul Weitz, J.D.
Biography and Written Testimony**

From Prof. Weitzel's profile on Nebraska College of Law website:

“Professor Paul Weitzel joined the UNL faculty in 2022. Prior to that he worked in Silicon Valley and the Middle East conducting international transactions on six continents. His most notable deal was the initial public offering of the Saudi Arabian Oil Company, the largest initial public offering to date. Professor Weitzel’s experience covers mergers and acquisitions, international and domestic capital markets, venture capital and infrastructure.

*Professor Weitzel’s scholarly research aims to humanize the corporate experience. His work explores the legal and governance constraints that drive antisocial corporate behavior, with the goal of revising the underlying theories of corporate purpose and corporate personality to empower executives”.*³⁰

See next page for Prof. Weitzel’s written testimony.

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September 6, 2024

Good afternoon,

I am pleased to offer my written testimony and hope that it will be helpful to the Committee. I submit this testimony in my individual capacity, not as a representative of the university. All opinions and errors are my own.

Section 501(c)

Section 501(a) of the Federal Internal Revenue Code (“IRC”) provides that an entity is exempt from federal income tax if the organization is described in Section 501(c).

Section 501(c) contains a variety of subsections. The most well-known is Section 501(c)(3), which describes organizations commonly called charities. The section reads in relevant part:

Corporations . . . organized and operated exclusively for religious, charitable, . . . or educational purposes . . . no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation . . . and which does not participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office.¹

Note that this section contains affirmative duties and some restrictions.

Affirmative Duties of 501(c)(3) Charities

Of the affirmative duties, the entity must be organized and operated exclusively for an exempt purpose. That typically means the charter and bylaws limit the organization to its charitable purpose and that no *substantial* part of the charity’s activities are aimed at advancing a non-exempt purpose. There can be insubstantial activities that don’t support the exempt purpose—a museum can have a gift shop—but if the gift shop becomes a substantial part of the organization’s activities, the organization may risk its exemption.

In plain English, this means that a charity must focus on charity. A religion must focus on religion. A school must focus on education. If a substantial part of the organization’s activities

¹ IRC 501(c)(3).

are used for purposes that are not part of its charitable purpose, the charity will not qualify as a 501(c)(3) organization.

Prohibited Acts by 501(c)(3) Charities

Section 501(c)(3) also has several prohibitions. First, it prohibits “inurement” of the “net earnings” to a private party. Roughly speaking, this means a charity can’t use its assets to benefit insiders.

Second, Section 501(c)(3) prohibits certain political activity. The statute mentions two types of political activity: candidate campaigns and attempts to influence legislation. The prohibition against interfering in candidate campaigns is absolute. Even de minimis interference is prohibited. The rules are nuanced, but roughly speaking, when charities interact with candidates, they must treat each candidate equally or treat the candidate as though there were no election pending.

For example, a mayor running for reelection may still cut the ribbon at the opening of a new Goodwill Store. The store does not need to invite every mayoral candidate to cut a ribbon. But the store should not reference the election or praise the mayor’s campaign platform.

The second political prohibition is on influencing legislation. In contrast to the prohibition on candidate campaigns, the statute prohibits only “substantial” amounts of lobbying. This means a 501(c)(3) organization can attempt to influence legislation as long as this activity does not become substantial.

This raises two questions. First, what do we mean by influencing legislation. Second, what is “substantial?”

“Legislation” in this context refers to actions by Congress, a legislature, a city council or similar governing body or by the public when the public is voting on an issue in a referendum. It does not include executive orders, administrative rulemaking, amicus briefs or judicial opinions.

“Influencing legislation” applies only to speech that is identified with a specific, pending policy proposal. So a campaign saying, “Let’s help kids learn to read” would likely be considered permissible, but one saying, “Oppose LB 987 to save our schools” or “Oppose the governor’s education plan” would be considered an attempt to influence legislation because that speech is readily identified with a specific, pending policy proposal.

Additionally, nonpartisan analyses and testimony to a legislative body at that body’s request are excluded from the definition of “influencing legislation.”

“Substantial” is less clearly defined. Early interpretations define lobbying as substantial if it is 5% of expenditures,² but for the past few decades courts review more holistically. To determine whether lobbying is substantial the court may consider the percent of expenditures, the percent of employee time or whether the activity is continuous or intermittent. Practitioners typically treat

² See, e.g., *Seasongood v. Commissioner*, 227 F.2d 907 (6th Cir. 1955)

10% as a rule of thumb for defining when private inurement becomes “substantial”, so that might also inform a court’s opinion.

Section 501(h) may also provide insights. 501(h) is an optional rule that allows a charity³ to opt-in to more clearly defined rules around lobbying. A nonprofit that elects to be governed by Section 501(h) can rely on a chart that clearly designates how much lobbying will be considered insubstantial based on total expenditures. A charity with expenditures of \$500,000 or less can spend 20% of its expenditures on lobbying, while a charity with more than \$1.5 million in expenditures is limited to 5%.⁴ While Section 501(h) applies only to charities that opt-in, these figures give a sense of what Congress may have meant by substantial.

Private Foundations

Foundations are a subset of organizations organized under Section 501(c)(3). Charities seek to avoid being designated a foundation because foundations face burdensome rules.

The rules to determine when a charity is a private foundation are complex, but at a high level they consider whether the charity has a broad base of public support or whether it is supported by membership dues, admission receipts and other income related to the exempt purpose. The idea is that if a charity is funded by a narrow group of people, there’s a greater risk it will be used for improper purposes to avoid taxation. In contrast, charities with broad public support or popular programming are likely focused on their charitable mission.

Foundations face several additional rules and excise taxes. For example, a private foundation faces a 20% excise tax on “any attempt to influence legislation through an attempt to affect the opinion of the general public,” subject to some exceptions.⁵ This limits the ability of private foundations to engage in lobbying efforts.

Foundations also face restrictions on excess business holdings. Roughly speaking, this prohibits a foundation from holding more than 20% of the voting stock of a business.⁶ The concern is that a private foundation will serve the donor by holding large amounts of stock in the donor’s company, which can serve to stabilize the share price.

Foundations also have more restrictions on related party transactions. At a high level, private foundations face an excise tax if they transact with their major donors, officers, family of donors or other related parties.⁷

501(c)(4) Organizations

As noted, any organization described under Section 501(c) is entitled to exemption from federal income tax. While we typically think of charities organized under Section 501(c)(3), other

³ Not every charity can opt-in to Section 501(h). Churches, for example, are not 501(h) eligible.

⁴ Note that this is for the marginal dollar spent. So an organization with \$1.5 million in expenditures would be able to spend 20% of the first \$500,000. It is a progressive gradient, much like the income tax code.

⁵ IRC 4945(a), (e).

⁶ IRC 4943.

⁷ IRC 4941.

organizations are also described under Section 501(c). For example, Section 501(c)(6) describes business leagues and chambers of commerce. Section 501(c)(7) describes recreational social clubs. And Section 501(c)(13) describes cemeteries. But the most influential nonprofits other than 501(c)(3) organizations are the organizations under Section 501(c)(4).

In relevant part, Section 501(c)(4) describes:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or [labor unions], and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes [and] no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Note that both sections, 501(c)(4) and 501(c)(3), prohibit private inurement and require that the earnings be used exclusively for charitable purposes. But also note that Section 501(c)(4) does not prohibit political activity. A 501(c)(4) entity is permitted to involve itself in political activity, and for this reason 501(c)(3) organizations often have a sister organization organized as a 501(c)(4) through which they do their lobbying.

For example, the ACLU operates a 501(c)(3) to carry out its mission and a 501(c)(4) to engage in lobbying.

You might wonder why anyone organizes as a 501(c)(3) if a 501(c)(4) is also exempt from federal income tax and has more freedom to lobby. The key difference is deductibility.

When a person donates to a 501(c)(3) organization, the donor can deduct the donation from the donor's income when paying taxes.⁸ In contrast, donations to 501(c)(4) organizations are *not* tax deductible for the donor. So a 501(c)(4) trades donor deductibility for increased ability to lobby.

Potential State Legislation of Charities

There are some constitutional limits on a state's ability to regulate charities. In response to a conservative legal referendum, California passed a law requiring charities to disclose their donors to the state attorney general. The purported purpose was to prevent fraud and reduce administrative burdens on the government. The information would be disclosed only to the attorney general's office not the general public.

The Supreme Court found mandating this donor disclosure infringed the First Amendment's guarantee of free association.⁹ Citing to earlier attempts to unmask donors to the NAACP in the 1950s, the Court ruled that "compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as other forms of governmental action."¹⁰

⁸ IRC 170.

⁹ *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 616, 141 S. Ct. 2373, 2388, 210 L. Ed. 2d 716 (2021)

¹⁰ *Id. quoting NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958) (cleaned up).

I am grateful for the opportunity to share this information with you, and I would be happy to meet with any senators seeking additional clarity.

Warm regards,

A handwritten signature in blue ink, appearing to read 'P. Weitzel', is displayed on a light gray rectangular background.

Paul Weitzel

Appendix A-3: List of Charitable Functions of 501(c)(3) Organizations + Operational & Organizational Test

Testing for 501(c)(3) Tax Exemption Eligibility

Summary

1 of 2

Federal statute proposes two tests to determine whether an organization is qualified for tax-exempt status per §501(c)(3):

‘In order to be exempt as an organization described in section 502(c)(3), an organization must be *both organized and operated exclusively for one or more of the purposes* specified in such section’ (§501(c)(3)(a)) [emphasis not in original].

The exempt ‘purposes’ referred to are limited to (a) religious, (b) charitable, (c) scientific, (d) testing for public safety, (e) literary, (f) educational, or (g) prevention of cruelty to children or animals. This enumeration is exhaustive—*no organization either organized or operating for purposes other than these can qualify for 501(c)(3) status*.

§501(c)(3)(b): The ‘Organizational Test’

The ‘organizational test’ is exclusively concerned with the relevant organization’s *articles of organization*, defined to include trust instruments, corporate charters, articles of association, or ‘any other written instrument by which an organization is created’. The necessary conditions to satisfy the ‘organizational test’ are as follows:

- I. Articles of organization must stipulate that the organization is organized *exclusively* for one or more of the aforementioned exempt purposes.
- II. Articles of organization must *not* expressly empower the organization to engage in activities which are not ‘in furtherance of’ the exempt purpose(s) for which the organization was created, except as an ‘insubstantial part of its activities’.
- III. Purpose(s) of the organization may *not* be defined more broadly by the articles of organization than they are in statute.
 - A. If the purpose(s) as defined in the articles of organization are found to be overly broad, neither the actual operations of the organization nor statements from members expressing intent to operate exclusively for one or more exempt purposes are sufficient to satisfy the ‘organizational test’.
- IV. Articles of organization must *not* empower the organization to (i) ‘devote more than an insubstantial part of its activities to attempting to influence legislation’, (ii) intervene or participate, either directly or indirectly, in any political campaign, or (iii) engage in activities characteristic of an *action organization* (lobbying for/against candidates or legislation, participating in political campaigns, contacting public officials or urging the public to do so).

Testing for 501(c)(3) Tax Exemption Eligibility

Summary

2 of 2

- V. All assets of an organization must be dedicated to an exempt purpose. Articles of organization must *not* provide for the organization's assets to be distributed to members or shareholders in the event of dissolution.
- VI. An organization must 'submit a detailed statement of its proposed activities with and as a part of its application for exemption', unless otherwise prescribed by law.

§501(c)(3)(c): The 'Operational Test'

The 'operational test' is concerned with the actual activities of the organization. Satisfaction of the 'operational test' is much simpler:

- I. The primary activities in which an organization engages must be exclusively in furtherance of one or more exempt purposes. If a 'substantial' portion of its activities are deemed not to be in furtherance of such a purpose or purposes, then the organization is *not* eligible for 501(c)(3) status.
- II. The net earnings of an organization must *not* be distributed for the benefit of *private shareholders or individuals*.
- III. An organization must *not* operate as an 'action organization'. An organization is considered an action organization if:
 - A. A substantial portion of the organization's activities involve contacting, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation, *or* advocating the adoption or rejection of legislation;
 - B. Characteristics of an action organization:
 - 1. The organization intervenes or participates, directly or indirectly, in any political campaign for or against any political candidate; and
 - 2. The organization's main objective can only be attained through the adoption or defeat of proposed legislation, or the organization advocates for the attainment of its main objective.
 - a) Advocacy is distinguished from conducting *nonpartisan analysis, study, or research* and making the result thereof available to the public.

Appendix A-4: Advocacy/Lobbying expenses for Stand for Schools

Link to Spreadsheet: [📄 Stand for Schools Lobbying Expenses](#)

Appendix A-5: Nebraska Education Collaboration Letter, Statement on Property Tax Relief (2024)

NEBRASKA

Education Collaboration



COLLABORATION MEMBERS

Nebraska Council of School Administrators

Nebraska Association of School Boards

Nebraska State Education Association

Schools Taking Action for Children's Education (STANCE)

Greater Nebraska Schools Association

Nebraska Rural Community Schools Association

Educational Service Units Coordinating Council

Stand for Schools

DATE: August 9, 2024

TO: Members of Nebraska Legislature

RE: AM51 to LB9

The Education Collaboration stands united in opposition to AM51 to LB9 and proposed amendments. We recognize the need for property tax relief and have consistently supported a more equitable balance of funding sources for K-12 public education in Nebraska. The drastic change to the Local Effort Rate (LER) proposed for 2025-26 risks breaking the TEEOSA formula due to the disproportionately large percentage of school funding being channeled through the State.

We are also concerned about the intent language in Section 80 of AM51. Expressing a desire to completely overhaul TEEOSA without a clear plan is premature. Moreover, the intent to "replace school general fund levies by no later than the 2026-27 school fiscal year," as reiterated from the plan, suggests a future scenario where the State assumes nearly all school funding responsibilities.

This proposed shift would leave the allocation of critical dollars solely to future legislatures, significantly undermining local control. We believe it is essential to maintain local control of significant school district funding, allowing local school boards to make decisions that reflect the unique needs and contexts of their communities.

Additionally, the proposed plan fails to provide new funding for schools and, in fact, would result in a net loss of levying authority, leading to cuts in schools and reduced support for students. While the proposal funnels state money to schools, the existing caps mean that little to none of this money will be available for student support. There is a pressing need for property tax reform, but equally important is the need for increased funding for schools, particularly to address educator workforce shortages.

Making decisions of this magnitude about state aid to schools within the time constraints of a special session is reckless. We urge caution. The rushed nature of this process does not allow for careful planning, adequate forethought, or the inclusion of school finance experts and modeling to prevent adverse impacts and unforeseen consequences.

To avoid disastrous results, we recommend the establishment of an inclusive School Funding Commission. This commission should include board members, school business managers from diverse schools, NASB delegates, educators represented by NSEA, and school finance officials from the Nebraska Department of Education.

www.needcollaboration.org

Appendix A-6: Donations to Nebraska Petitions, Spreadsheet Breakdown

Spreadsheet Links:

[+](#) Donations to Petition Drives

[+](#) OpenSky, Stand for Schools, NE Civic Engagement Table, Second House Collaborative, ...

Appendix A-7: Breakdown of Shared Board Members, Officers, and Employees;

Spreadsheet Links:

[+](#) Stand for Schools Board

[+](#) Nebraska Civic Engagement Table Board members

[+](#) OpenSky Boardmembers

[+](#) Civic Nebraska Board of Directors

[+](#) Sherwood Foundation Employees/Board

Appendix A-8: Biographies of Connected Officers/Board Members of Interest

Jerry Bexten:

Jerry Bexten's involvement with nonprofits began as an employee of the Sherwood Foundation in 2006. He worked under the Sherwood Foundation until 2021. When he was employed in Sherwood, Mr. Bexten served as the Director of Education Initiatives for the Foundation. While still employed with Sherwood, Mr. Bexten became the president of Stand for Schools in 2016, where he still serves in that role to this day. In 2018, Mr. Bexten also joined the OpenSky Policy Institute Board of Directors.

Kristin Williams:

Kristin Williams was employed with the Sherwood Foundation from 2009 to 2020. During that time, Ms. Williams served as the Director of Community Initiatives. Beginning in 2011, Ms. Williams joined the OpenSky Policy Institute Board of Directors. She was a member of the OpenSky board until 2017. Currently, Ms. Williams operates her own counseling business out of Omaha, Nebraska.

Meg Mikolajczyk:

Meg Mikolajczyk has served as a nonprofit board member and as a paid lobbyist. From 2018 to 2022, Ms. Mikolajczyk served on the Nebraska Civic Engagement Table’s Board of Directors. From 2022 to 2024, she was registered as the lobbyist for the Nebraska Civic Engagement Table. Additionally, from 2019 to 2021, Ms. Mikolajczyk was registered as the lobbyist for Planned Parenthood North Central States. Recently, she has been active during the 2024 pro-abortion initiative (initiative 439), collecting and notarizing petitions for this issue. Ms. Mikolajczyk has also been involved in political races. In 2015, she ran for the Lincoln City Council but did not win the election.

Appendix A-9: Additional Advocacy/Lobbying Finance Info on 501(c)(3) organizations

Spreadsheet Links:

- [+](#) Additional Finance Info Stand For Schools
- [+](#) Center for Rural Affairs Donations
- [+](#) Center for Rural Affairs Advocacy/Lobbying Activity
- [+](#) Civic Nebraska Donations
- [+](#) Civic Nebraska Donations/Revenues, Detailed
- [+](#) Nebraska Civic Engagement Table Advocacy/Lobbyist totals
- [+](#) Nebraska Civic Engagement Table Donations
- [+](#) Nebraska Civic Engagement Table Donations/Revenues, Detailed
- [+](#) Nonprofit Association of the Midlands Advocacy/Lobbying Totals
- [+](#) OpenSky Advocacy/Lobbyist 2024-2019 TOTALS
- [+](#) OpenSky Donations and Attendance
- [+](#) Planned Parenthood North Central States Advocacy/Lobbying Totals
- [+](#) Stand for Schools Advocacy/Lobbying Expenses

Appendix A-10: Hearing Attendance by OpenSky and Stand for Schools

Spreadsheet Link:

- [+](#) COMPLETED Hearing Attendance OpenSky and SFS - Master
- [+](#) Letters by OpenSky Attendance for Hearings - Final

Appendix A-11: Influence Watch Reports on Nonprofits Referenced in LR 385 Report

OpenSky: <https://www.influencewatch.org/non-profit/opensky-policy-institute/>

Stand for Schools: Not available

Sherwood Foundation: <https://www.influencewatch.org/non-profit/sherwood-foundation/>

Alliance for Justice: <https://www.influencewatch.org/non-profit/alliance-for-justice/>
<https://www.influencewatch.org/non-profit/alliance-for-justice-action-campaign-afjac/>

Weitz Family Foundation: Not available

Holland Foundation: Not Available

Platte Institute:
<https://www.influencewatch.org/non-profit/platte-institute-for-economic-research/>

Americans for Prosperity: <https://www.influencewatch.org/non-profit/americans-for-prosperity/>
<https://www.influencewatch.org/non-profit/americans-for-prosperity-foundation/>

American Federation for Children:
<https://www.influencewatch.org/non-profit/american-federation-for-children-growth-fund-afc-growth-fund/>

Appendix A-12: Information on Meg Mikolajczyk

1. <https://www.plannedparenthoodaction.org/planned-parenthood-advocates-nebraska/blog/lincoln-conversion-therapy-ban-planned-parenthood-testimony>
2. <https://x.com/NatlCouncilNPs/status/1833506415270658135>
3. <https://www.youtube.com/watch?v=DPYI9zG7Grc>
4. <https://www.influencewatch.org/non-profit/nebraska-civic-engagement-table/>

Notes/Bibliography

1. [Peterson-Withorn, C. \(2024, June 28\). Warren Buffett just gave another \\$5.3 billion to charity. Forbes.](#)
2. [What we fund – the Sherwood Foundation. \(n.d.\).](#)
3. [Exemption requirements - 501\(c\)\(3\) organizations | Internal Revenue Service. \(n.d.\).](#)
4. [Harmon, G. M., Ladd, J. A., Evans, E. A., Harmon, Curran, Spielberg & Eisenberg, LLP, & Alliance for Justice. \(1991\). BEING a PLAYER. In BEING a PLAYER.](#)
5. [ibid.](#)
6. [bolderadvocacy.org & allianceforjustice.org. \(n.d.\). How to Fund a 501\(c\)\(4\): What Nonprofits and Foundations Need to Know. In bolderadvocacy.org | allianceforjustice.org \(pp. 1–65\).](#)
7. [26 CFR 1.501\(c\)\(3\)-1 -- Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals. \(n.d.\).](#)
8. [HOME | Stand for Schools - Nebraska. \(n.d.\).](#)
9. [Suozzo, A., Glassford, A., Ngu, A., & Roberts, B. \(2013, May 9\). Stand for Schools - Full filing- nonprofit explorer. ProPublica.](#)
10. [Department of the Treasury & Internal Revenue Service. \(2023\). Instructions for Schedule C \(Form 990\): Political campaign and lobbying activities](#)
11. [Hunter-Pirtle, A. \(2020, February 6\). Public schools need protection. Stand For Schools.](#)
12. [Hunter-Pirtle, A. \(2019, October 31\). Don't divert public funds to private schools. Stand For Schools.](#)
13. [Hunter-Pirtle, A. \(2018, March 18\). Support strong funding of our public schools. Stand For Schools.](#)
14. [Hunter-Pirtle, A. \(2021, May 26\). School solutions, not schemes. Stand For Schools.](#)
15. [Schools, S. F. \(2022, July 22\). Stand for Schools names new executive director. Stand For Schools.](#)
16. [Schools, S. F. \(2023, July 31\). Legislature passes LB 753 despite strong opposition from most Nebraskans. Stand For Schools.](#)
17. [Neb. Rev. Stat. Sec. 79-2607](#)

18. [Department of the Treasury & Internal Revenue Service. \(2023b\). *Instructions for Schedule C \(Form 990\): Political campaign and lobbying activities* \[Report\].](#)
19. [Reist, M. \(2017, February 14\). *Florida residents survey Hurricane Milton damage, begin to clean up* \[Video\]. JournalStar.com.](#)
20. [Wieseler, O. \(2021, September 1\). *Public education advocacy non-profit visits Gering Public Schools. Stand For Schools.*](#)
21. [Schools, S. F. \(2022a, May 1\). *Stand For Schools receives national recognition, Grassroots Organization of the Year Award. Stand For Schools.*](#)
22. [National Council of Nonprofits. \(2024, September 9\). *Nonprofit Nonpartisan Election Tip | Ballot measures* \[Video\]. YouTube.](#)
23. [Harmon, G. M., Ladd, J. A., Evans, E. A., Harmon, Curran, Spielberg & Eisenberg, LLP, & Alliance for Justice. \(1991b\). *BEING a PLAYER. In BEING a PLAYER.*](#)
24. [Harmon, G. M., Ladd, J. A., Evans, E. A., Harmon, Curran, Spielberg & Eisenberg, LLP, & Alliance for Justice. \(1991c\). *BEING a PLAYER. In BEING a PLAYER.*](#)
25. [Hammel, P. \(2023, June 6\). *Public schools supporters launch drive to put school choice bill on ballot.* Nebraska Examiner.](#)
26. [Open Sky Policy Institute. \(2024, July 25\). *About us | Open Sky Policy Institute.*](#)
27. [Open Sky Policy Institute. \(2024, July 25\). *About us | Open Sky Policy Institute.*](#)
28. [Open Sky Policy Institute. \(2024, July 25\). *About us | Open Sky Policy Institute.*](#)
29. [Alliance for Justice. \(n.d.\). *The Practical Implications of Affiliated 501\(c\)\(3\)s and 501\(c\)\(4\)s.*](#)
30. [Paul Weitzel | College of Law | Nebraska. \(n.d.\).](#)