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MEMORANDUM FOR: THE DRAFTING COMMITTEE OF AN OVERSIGHT OF CHARITABLE ASSETS ACT

FROM: RICHARD DINGMAN, SENIOR COUNSEL

SUBJECT: Opposition to Oversight of Charitable Assets Act

DATE: FEBRUARY 4, 2011

The Free Speech Coalition, Inc. and the following nonprofit and support organizations, unanimously urge that the planned **Oversight of Charitable Assets Act** (“OCAA”) project, recently euphemistically-renamed as the **Protection of Charitable Assets Act**, be immediately terminated — or its scope be limited to delete all of its registration and reporting requirements — for many reasons, including the following:

- There is **no proven necessity** for such new regulation of nonprofits. On those rare occasions where fraud exists, there are sufficient existing laws to remedy such problems.
- OCAA would further and dramatically **drain operational and program resources** away from needy nonprofit programs. Many valuable programs would have to be terminated.
- OCAA would impose new and **unnecessary financial burdens** on state budgets, which are already stressed and impose new fees upon cash strapped charities.
- OCAA would be an unnecessary and improper **expansion of government’s visitation** authority over private entities and privately contributed funds, especially given existing entity formation, registration, tax and charitable solicitation laws.
- OCAA does not provide adequate **First, Fourth or Fourteenth Amendment** protections.
- OCAA would be subject to abuse for **political or ideological** reasons, especially considering its lack of well-defined standards.

- OCAA provides only a very narrow exemption for “**churches and houses of worship**,” leaving a vast expanse of religious organizations to be subject to any new regulations and potential state **intrusion into church/religious matters**.
- OCAA provides a dramatic platform for unlimited **political mischief**, either by disgruntled citizens or by politically motivated officials, as those opposed to a nonprofit’s activities could initiate severely damaging investigations, even without a clear violation of law.
- OCAA would severely damage thousands of small nonprofits which would find such new **regulations and fees onerous and even fatal**. At the same time, large nonprofits are likely to support OCAA as they are structured and financed to handle such new burdens, and they would benefit by the reduction of donor competition resulting from elimination of many smaller nonprofits.
- The Committee has not only failed to demonstrate OCAA is needed, it has failed to consider other less burdensome methods that could achieve whatever it is that state regulators claim as the basis for OCAA.
- State regulators already have registration and investigative powers, and not only do they abuse those powers, but have proven that they have not applied those laws in the best interests of donors or the charities they regulate.
- The Committee has not opened its proceedings to the general public for comment, but instead has accepted the direction of only one constituency, the state regulators who have failed to adequately administer laws governing charities.

For these and other reasons not enumerated, this legislative proposal should be immediately abandoned or its scope be limited to delete all of its registration and reporting requirements. Unnecessary expansion of government at this time in our history would be seriously detrimental to the well-being of the public and the charitable community.

U.S. Business and Industrial Council
Washington, DC

Miracle Flights for Kids
Green Valley, NV

The Discovery Institute
Seattle, WA

English First
Springfield, VA

Eberle Communications Group, Inc.
McLean, VA

English First Foundation
Springfield, VA

Base Connect, Inc.
Washington, DC

Citizens United
Washington, DC

Citizens United Foundation
Washington, DC

Gun Owners of America
Springfield, VA

Gun Owners Foundation
Springfield, VA

Traditional Values Coalition
Washington, DC

Young America's Foundation
Herndon, VA

American Coalition for Competitive Trade
Vienna, VA

Sam Adams Alliance
Chicago, IL

DownsizeDC.org, Inc.
Cuyahoga Falls, OH

Downsize DC Foundation
Cuyahoga Falls, OH

The Weyrich Lunch Group
Alexandria, VA

National Federation of Republican Women
Washington, DC

Citizens in Charge
Lake Ridge, VA

American Values
Shirlington, VA

American Target Advertising, Inc.
Manassas, VA

Citizens in Charge Foundation
Lake Ridge, VA

The Leadership Institute
Arlington, VA

American Civil Rights Union
Alexandria, VA

Free Speech Defense & Educ. Fund
Vienna, VA

Let Freedom Ring
Wilmington, DE

Accuracy in Media
Washington, DC

Victims' Assistance Legal Organization
McLean, VA

Renew America
Provo, UT

The Liberty Committee
Falls Church, VA

YR Alumni Network
Washington, DC

American Conservative Union
Alexandria, VA

ClearWord Communications Group, Inc
Bristow, VA

60 Plus Association
Alexandria, VA

Conservative Legal Defense & Educ. Fund
Vienna, VA

U.S. Border Control
Springfield, VA

Policy Analysis Center
Ft. Lauderdale, FL

National Taxpayers Union
Alexandria, VA

National Legal and Policy Center
Falls Church, VA

*The National Center for Public Policy
Research*
Washington, DC

*The Abraham Lincoln Foundation for
Public Policy Research, Inc.*
Great Falls, VA

*Concerned Women for America
Legislative Action Committee*
Washington, DC

The Conservative Caucus
Vienna, VA

The Harbinger Communications Co., Inc.
Alexandria, VA

Council for America
Washington, DC

*The Lincoln Institute for Research and
Education*
Great Falls, VA