



Statement by the Community Foundation Public Awareness Initiative

Senate Finance Committee Hearing “Examining Charitable Giving and Trends in the Nonprofit Sector”

March 17, 2022

Today’s Finance Committee hearing, “Examining Charitable Giving and Trends in the Nonprofit Sector,” is exploring current incentives for charitable giving and whether they can be designed more effectively, to motivate giving from more taxpayers across the income distribution at the lowest possible revenue cost. Community foundations are generally supportive of tax law changes, such as the Universal Giving Pandemic Response Act (i.e., the Lankford-Coons bill), that would expand the number of taxpayers receiving a tax incentive for their giving. We appreciate the Lankford-Coons bill was introduced with changes suggested by community foundations, such as making donor-advised funds (DAFs) eligible for charitable gifts under the Act.

We want to offer brief testimony today on one issue which affects all community foundations to varying degrees: the inability of donors to use a DAF for IRA Charitable Rollover (Qualifying Charitable Distribution) gifts under Section 408(d)(8). This seemingly small provision impacts many of our donors every year, and has the opposite impact in practice than was intended. It keeps more money locked up, rather than getting it out into the community; it reduces the ability of donors to support the charities of their choice; and it makes it harder for IRA rollover gifts to get to smaller charities that have had a harder time raising money after the 2017 tax reform law and the COVID-19 pandemic.

As the Finance Committee knows, the Pension Protection Act of 2006 (PPA) defined DAFs for the first time and included a set of reforms at the urging of then-Chairman Grassley and his staff. Since the PPA, for example, a donor cannot use a DAF to direct gifts to individuals, private foundations, or non-charitable purposes. A donor cannot recommend a gift that provides more than an incidental benefit to the donor-advisor. And most closely held business interests in a DAF must be sold within five years. As community foundation leaders, we support all these reforms.

The IRA Charitable Rollover was created by the PPA. Because the above reforms had not yet taken effect, the PPA said a taxpayer could not use the rollover for a gift to a DAF. A donor can use the rollover to give to a university endowment, where the money almost certainly isn’t immediately utilized, or to the endowment of a local hospital or art museum – but they can’t address a community’s needs by contributing to a DAF at the local community

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foundation. Also, and most important, because most users of the rollover pick a single charity for their gift, the opportunity to donate to multiple local charities through a single gift transaction is lost.

This exclusion inhibits community foundations from helping our donors efficiently get money to local nonprofits they support. Because DAF payout rates are substantial, the prohibition on DAFs doesn't promote greater giving. Instead, the DAF prohibition restricts donor flexibility by (1) codifying a preference of some charities over others, and (2) making it difficult for a donor to be broad-based in their giving.

Here is what happens every year at community foundations across the country. A donor comes in and wants to direct a Qualifying Charitable Distribution into a DAF, and we tell them it's not allowed. This frustrates the donors, who don't understand the restriction. After this initial disappointment, one of three things happens:

1. The community foundation attempts a workaround, in which a donor makes their rollover gift directly to the foundation, either to an unrestricted fund or field-of-interest fund (where donors can't recommend specific charities) or a fund like a designated fund (where donors can recommend specific charities, but only a portion of the funds may be granted out each year);
2. The donor will go to another 501(c)3 charity for their gift, but more likely than not, it will be a single, large charity which could put the gift into their own endowment (i.e., it won't get spent immediately to address immediate community needs); or
3. The donor becomes discouraged and doesn't make a charitable gift.

None of these outcomes are optimal for charitable giving. Therefore, our partnership of community foundations, representing nearly 150 foundations of all sizes in 47 states, has been leading an effort to help Members of Congress understand how the DAF exclusion hurts their constituents. Fixing this provision, either in tax or retirement legislation, will have negligible revenue impact, but it will have a positive charitable impact in communities across the country as donors learn that they can easily divide up their rollover gifts.

One of our participating CEOs, Roxie Jerde of the Community Foundation of Sarasota County, offers the following observations:

The Sarasota Community is heavily populated with middle-class retirees who engage in philanthropic grantmaking. Most of our donors are in their 70s and utilize the IRA charitable rollover (QCD) in their annual giving. Our donors regularly make grants in \$100, \$500, and \$1,000 increments to 30-40 organizations each year. IRA custodians do not want to cut QCD checks in these increments for this volume of giving. Donors are confused when they are told they cannot distribute the QCD into their DAF to make these grants. Further, our donors want to support grassroots organizations benefiting under-represented communities, but they want the oversight offered by our foundation concerning the use and impact of grant dollars. They get this oversight by granting through their DAFs. We have seen donors revert to granting to long-term institutional

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organizations when told they cannot grant their QCDs into their DAFs, thus causing grassroots organizations to suffer.

One of the recent trends in charitable giving, which today's hearing reinforces, is how the 2017 tax law concentrated charitable giving incentives among higher-income people, who tend to give large gifts to big institutions. But what about the smaller organizations that may benefit from \$250, \$500, or \$1,000 gifts, such as the ones Roxie Jerde is referencing? People are not going to give their entire Required Minimum Distribution (RMD) from their IRA to the small charity. The best tool for this small-dollar giving is the donor-advised fund: Let the taxpayer put their RMD in their DAF, and then recommend grants as they wish to as many charities as they choose. It makes giving easier – and when giving is easy, people give more.

The key takeaway is this: **Whether someone uses the Rollover to make one \$30,000 gift, ten \$3,000 gifts, or thirty \$1,000 gifts, the federal tax implications are the same.** Why not let donors have the flexibility to make their own choices? Why not make it easy for them to give to multiple charities?

The IRA Rollover fix has broad support in the charitable field, including the Council on Foundations, the Alliance for Charitable Reform (Philanthropy Roundtable), National Philanthropic Trust, Jewish Federations of North America, United Way, and other leading charitable groups. Removing the prohibition will help promote community philanthropy at a time the charitable sector is being asked to do more – and it will make the rollover *work better* because it will allow people to use the rollover to get gifts to smaller charities.

There are some advocates who have recently expressed concerns over the growth of DAFs as a popular philanthropic vehicle. We believe DAFs are flexible tools that promote philanthropy, and that the critics are misguided. But we can't stress enough that the issues sometimes raised in the DAF context – assertions about inactive funds, how high-net-worth people use DAFs, tax treatment of complex assets, etc. – *these issues simply do not come up in the IRA rollover context.* Qualifying Charitable Distributions are limited to taxpayers aged over 70½; limited to \$100,000 per year; and because the money is coming directly from an IRA (i.e., marketable securities), complex assets like real estate and closely held business stock aren't an issue. *Billionaires aren't using the rollover; middle-class Americans are.*

Our donors want to get money out the door, and they want to get money to smaller charities. The donor-advised fund is the most effective tool to do that. Fixing the IRA charitable rollover by eliminating the DAF prohibition would be a way to incentivize charitable giving and get more money to small, local charities at very modest revenue cost.

Thank you for your attention to our concerns.

(See participating foundations on next page.)

CFPAI Participating Foundations (March 2022)

Alabama

Christopher Nanni, Community Foundation of Greater Birmingham, Birmingham

Arizona

Steve Seleznow, Arizona Community Foundation, Phoenix

Jenny Flynn, Community Foundation for Southern Arizona, Tucson

Arkansas

Heather Larkin, Arkansas Community Foundation, Little Rock

California

Ashley Swearengin, Central Valley Community Foundation, Fresno

Dan Baldwin, Community Foundation for Monterey County, Monterey

Sheryl Alexander, Community Foundation Sonoma County, Santa Rosa

Pam Calloway, East Bay Community Foundation, Oakland

Kristen Beall, Kern Community Foundation, Bakersfield

Rhea Suh, Marin Community Foundation, Novato

Shelly Hoss, Orange County Community Foundation, Newport Beach

Jennifer Fleming DeVoll, Pasadena Community Foundation, Pasadena

Linda Beech Cutler, Sacramento Region Community Foundation, Sacramento

Mark Stuart, San Diego Area Foundation, San Diego

Nicole Taylor, Silicon Valley Community Foundation, Mountain View

Colorado

Tatiana Hernandez, Community Foundation Boulder County, Boulder

Javier Soto, Denver Foundation, Denver

Gary Butterworth, Pikes Peak Community Foundation, Colorado Springs

Connecticut

William Ginsberg, Community Foundation for Greater New Haven, New Haven

Juanita James, Fairfield County's Community Foundation, Norwalk

Delaware

Stuart Comstock-Gay, Delaware Community Foundation, Wilmington

District of Columbia

Tonia Wellons, Greater Washington Community Foundation, Washington, DC

Florida

Mark Brewer, Central Florida Foundation, Orlando

Sarah Owen, Collaboratory (formerly Southwest Florida Community Foundation), Fort Myers

Theresa Grimison, Community Foundation for Brevard, Melbourne

Jennifer O'Flannery Anderson, Community Foundation of Broward, Ft. Lauderdale

Eileen Connolly-Keesler, Community Foundation of Collier County, Naples

Barzella Papa, Community Foundation of North Central Florida, Gainesville

Katrina Rolle, Community Foundation of North Florida, Tallahassee

Nina Waters, Community Foundation for Northeast Florida, Jacksonville

Danita Dias, Community Foundation for Palm Beach and Martin Counties, West Palm Beach

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Roxie Jerde, Community Foundation of Sarasota County, Sarasota
Marlene Spalten, Community Foundation of Tampa Bay, Tampa
John Attaway, GiveWell Community Foundation, Lakeland and Winter Haven
Mark Pritchett, Gulf Coast Community Foundation, Sarasota
Jeffrey Pickering, Indian River Community Foundation, Vero Beach
Rebecca Fishman Lipsey, Miami Foundation, Miami
Duggan Cooley, Pinellas Community Foundation, Largo

Georgia

Kathryn Dennis, Community Foundation of Central Georgia, Macon
Betsy Covington, Community Foundation of the Chattahoochee Valley, Columbus
Frank Fernandez, Community Foundation for Greater Atlanta, Atlanta
Randy Redner, Community Foundation of Northeast Georgia, Duluth
David Carlton, Community Foundation of South Georgia, Thomasville

Hawaii

Micah Kane, Hawaii Community Foundation, Honolulu

Idaho

Steve Burns, Idaho Community Foundation, Boise

Illinois

Helene Gayle, Chicago Community Trust, Chicago

Indiana

Brian Payne, Central Indiana Community Foundation, Indianapolis
Rose Meissner, Community Foundation of St. Joseph County, South Bend
Stephanie Overbey, Kosciusko County Community Foundation, Warsaw
Tom Kilian, Hamilton County Community Foundation, Fishers

Iowa

Kristi Knous, Community Foundation of Greater Des Moines, Des Moines
Les Garner, Greater Cedar Rapids Community Foundation, Cedar Rapids
Randy Moore, Quad Cities Community Foundation, Bettendorf

Kansas

Shelly Prichard, Wichita Community Foundation, Wichita

Louisiana

Chris Meyer, Baton Rouge Area Foundation, Baton Rouge
Raymond Hebert, Community Foundation of Acadiana, Lafayette
Andy Kopplin, Greater New Orleans Foundation, New Orleans

Maryland

Shanaysha Sauls, Baltimore Community Foundation, Baltimore

Massachusetts

Peter Taylor, Berkshire-Taconic Community Foundation, Great Barrington
Lee Pelton, Boston Foundation, Boston
Katie Zobel, Community Foundation of Western Massachusetts, Springfield

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Beth Francis, Essex County Community Foundation, Danvers
Carolyn Stempler, Greater Worcester Community Foundation, Worcester
Kim Heard, SouthCoast Community Foundation, New Bedford

Michigan

Mariam Noland, Community Foundation for Southeast Michigan, Detroit
Isaiah Oliver, Greater Flint Community Foundation, Flint
Carrie Pickett-Erway, Kalamazoo Community Foundation, Kalamazoo

Minnesota

R. T. Rybak, Minneapolis Foundation, Minneapolis
Eric Jolly, Minnesota Philanthropy Partners (St. Paul Foundation and Minnesota Community Foundation), St. Paul

Mississippi

Jane Alexander, Community Foundation for Mississippi, Jackson

Missouri

Brian Fogle, Community Foundation of the Ozarks, Springfield
Debbie Wilkerson, Greater Kansas City Community Foundation, Kansas City
Amelia Bond, Greater St. Louis Community Foundation, St. Louis

Montana

Mary Rutherford, Montana Community Foundation

Nebraska

Donna Kush, Omaha Community Foundation, Omaha

Nevada

Gian Brosco, Nevada Community Foundation, Las Vegas
Claudia Andersen, Parasol Tahoe Community Foundation, Incline Village

New Hampshire

Richard Ober, New Hampshire Charitable Foundation, Concord

New Jersey

Hans Dekker, New Jersey Community Foundation, Morristown

New Mexico

Sue Colliton, Santa Fe Community Foundation, Santa Fe

New York

Cali Brooks, Adirondack Foundation, Lake Placid
Clotilde Dedecker, Community Foundation for Greater Buffalo, Buffalo
John Eberle, Community Foundation for the Greater Capital Region, Albany
Sally Cross, Community Foundations of the Hudson Valley, Kingston and Poughkeepsie
Peter Dunn, Central New York Community Foundation, Syracuse
Lorie Slutsky, New York Community Trust, New York City
Jennifer Leonard, Rochester Area Community Foundation, Rochester

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North Carolina

Elizabeth Brazas, Community Foundation of Western North Carolina, Asheville
Michael Marsicano, Foundation for the Carolinas, Charlotte
Jennifer Tolle Whiteside, North Carolina Community Foundation, Raleigh
Lori O'Keefe, Triangle Community Foundation, Durham
LaTida Smith, Winston-Salem Foundation, Winston-Salem

North Dakota

Eric Wilkie, FM Area Foundation, Fargo

Ohio

John Petures, Akron Community Foundation, Akron
Ronald Richard, Cleveland Foundation, Cleveland
Douglas Kridler, Columbus Foundation, Columbus
Cynthia Andrews, Community Foundation Lorain County, Elyria
Mike Parks, Dayton Foundation, Dayton
Ellen Katz, Greater Cincinnati Foundation, Cincinnati
Keith Burwell, Toledo Community Foundation, Toledo

Oklahoma

Nancy Anthony, Oklahoma City Community Foundation, Oklahoma City
Phil Lakin, Tulsa Community Foundation, Tulsa

Oregon

Max Williams, Oregon Community Foundation, Portland

Pennsylvania

McCrae Martino, Community Foundation of Westmoreland County, Greensburg
Frances Sheehan, Foundation for Delaware County, Media
Karen Bilowith, Erie Community Foundation, Erie
Sam Bressi, Lancaster County Community Foundation, Lancaster
David Pedri, Luzerne Foundation, Luzerne
Pedro Ramos, Philadelphia Foundation, Philadelphia
Lisa Schroeder, Pittsburgh Foundation, Pittsburgh

Rhode Island

Neil Steinberg, Rhode Island Foundation, Providence

South Carolina

JoAnn Turnquist, Central Carolina Community Foundation, Columbia
Darrin Goss, Coastal Community Foundation, North Charleston

South Dakota

Stephanie Judson, South Dakota Community Foundation, Pierre

Tennessee

Robert Fockler, Community Foundation of Greater Memphis, Memphis
Michael McClamroch, East Tennessee Foundation, Knoxville

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Texas

Mike Nellis, Austin Community Foundation, Austin
David Scullin, Communities Foundation of Texas, Dallas
Katie Alford, Community Foundation of Abilene, Abilene
Matthew Randazzo, Dallas Foundation, Dallas
Kyle Penney, East Texas Communities Foundation, Tyler
Stephen Maislin, Greater Houston Community Foundation, Houston
Rose Bradshaw, North Texas Community Foundation, Fort Worth
Guy McCrary, Permian Basin Area Foundation, Midland
Matt Lewis, San Angelo Area Foundation, San Angelo
Marjie French, San Antonio Area Foundation, San Antonio
Ashley Allison, Waco Foundation, Waco

Utah

Alex Eaton, Community Foundation of Utah, Salt Lake City

Vermont

Dan Smith, Vermont Community Foundation, Middlebury

Virginia

Heather Peeler, ACT for Alexandria, Alexandria
Jennifer Owens, Arlington Community Foundation, Arlington
Eileen Ellsworth, Community Foundation for Northern Virginia, Oakton
Debbie DiCroce, Hampton Roads Community Foundation, Norfolk

Washington

Beth Stipe, Community Foundation of North Central Washington, Wenatchee
Shelly O'Quinn, Innovia Foundation, Spokane
David Bley, Seattle Foundation, Seattle
Mauri Ingram, Whatcom Community Foundation, Bellingham

West Virginia

Susie Nelson, Community Foundation of the Ohio Valley, Wheeling

Wisconsin

Curt Detjen, Community Foundation for the Fox Valley Region, Appleton
Sue Bornick, Eau Claire Community Foundation, Eau Claire
Ellen Gilligan, Greater Milwaukee Foundation, Milwaukee
Jamie Schloegel, La Crosse Community Foundation, La Crosse
Liz Powell, Racine Community Foundation, Racine

Wyoming

Craig Showalter, Wyoming Community Foundation, Laramie