



September 22, 2021

Dear Senator:

According to reports, a possible cloture vote may take place this week on S. 2747, the so-called “Freedom to Vote Act,” a slightly revised version of the House-passed “For the People Act.” Many Senators have praised S. 2747 as a “compromise” between members of the majority party, but it still equates to a fundamentally flawed federal power grab. While it may masquerade as a common-sense ethics and elections reform bill, in reality it is deeply troubling and far from sensible. Its enactment would stifle free speech, severely threaten the viability of 501(c)(4) tax-exempt organizations, and increase federal spending. Due to the reasons expressed below, if S. 2747 were to come to the Senate floor in its current form NTU would consider a “NO” vote to be the pro-taxpayer position.

The cornerstone of our democracy is the promise of free and fair elections, coupled with the unabridged freedoms guaranteed by the Constitution. NTU strongly believes these pillars are essential to ensuring the United States remains free and prosperous. However, S. 2747 seeks to address some of the underlying problems in our election system with the heavy hand of the federal government controlling most aspects of the election process, which are properly under the jurisdiction of state governments. Our founders were wary of large-scale federal involvement, which led to the decentralized federalist system that exists today.

Though NTU is opposed to the underlying bill, we are still pleased to see the removal of certain aspects that are contained in H.R. 1, such as turning the Federal Election Commission into a partisan agency and the taxpayer-funding of elections. Despite this progress, as a nonpartisan 501(c)(4) advocacy organization NTU would be particularly disadvantaged by this proposed system’s heavy-handed regulations. To be clear, NTU takes no position on the sensitive nature of the voting rights provisions, but the ancillary sections on higher fees, higher spending, and enhanced regulation outweigh the potential benefits of its enactment. As a result NTU strongly opposes the following provisions:

DISCLOSE Act. Title VI, Subtitle A includes the “Democracy Is Strengthened by Casting Light On Spending in Elections Act.” This haphazardly designed legislation would impose onerous restrictions on a wide range of legitimate speech and threatens to further undermine the First Amendment. Specifically, the DISCLOSE Act would require nonprofit organizations, like NTU, to report their private donors to the Federal Elections Commission for common advocacy campaigns to educate the public on pressing issues that an organization views as important. Additionally, it would compel nonprofits to declare on new, publicly filed “campaign-related disbursement” reports that their ads are either “in support of or in opposition” if an advertisement mentions a candidate’s name. As the Institute for Free Speech notes, “in many instances, the donors being identified will have provided no funding for the ads. Faced with the prospect of being inaccurately associated with what, by law, would be considered (unjustifiably, in many or most instances) ‘campaign’ ads in FEC reports and disclaimers, many donors will stop giving to nonprofits, or these groups will self-censor.”

Spotlight Act. Title VI, Subtitle C includes the “Spotlight Act,” which clearly infringes on the privacy of those who choose to support nonprofit organizations. Specifically, it would require certain organizations to divulge

the names and addresses of many individuals who freely choose to support their organization. Their information would be held forever in a publicly available government database. This would invade the privacy of donors and expose them to tactics such as “doxing” by individuals who may target them simply because of the causes they choose to support. Taxpayers, and indeed all Americans, have a constitutionally guaranteed right to privacy, and a violation of this sacred right could suppress political speech. This provision reinforces fears about political retaliation if contributions were divulged.

New Federal Holiday. Title I, Part 2 would recognize Election Day as a legal public holiday during even-numbered election years. This provision would add a twelfth federal holiday to the calendar every other year, giving government workers and private sector workers the day off. This additional day off, according to an analysis provided by NTU’s research arm, NTUF, is estimated to be \$918 million per year. They write: “the cost per work day of the federal civilian workforce (excluding the Postal Service) is \$858 million. In addition, certain federal employees who are still required to work on holidays are eligible for premium pay which in the past has been roughly 7 percent of the base holiday pay.” Instead, Congress should consider swapping this holiday with another federal holiday to ensure government productivity remains stable and costs to taxpayers remains minimal.

Higher Federal Spending. While many of the aforementioned provisions of the Freedom to Vote Act would have significant consequences on the nonprofit sector at large, this bill would negatively impact our members - American taxpayers. An analysis of the fiscal effects of this legislation by National Taxpayers Union Foundation estimates an increase in spending of \$5.47 billion in FY 21, \$1.3 billion in FY 22, \$92 million in FY 23, \$1.67 billion in FY 24, and \$163 million in FY 25. With the record level of deficits and debts, members of Congress should make sure they are fully assessing the budget impact of measures under consideration and enacting corresponding spending reductions to protect taxpayers from additional liabilities.

Despite its compelling title, the “Freedom to Vote Act” would greatly harm the freedom of taxpayers and nonprofit organizations to prosper in the modern age. NTU understands that some reforms are meritorious to ensure transparency and accountability during the election process, but the framework proposed in this legislation is simply unworkable and unnecessary. For the aforementioned reasons, NTU stands opposed to this legislation and implores you to vote against voting on advancing or passing S. 2747.

Sincerely,

Thomas Aiello
Director of Federal Affairs