HEARING ON AARP'S ORGANIZATIONAL STRUCTURE, MANAGEMENT, AND FINANCES

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH

AND THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

APRIL 1, 2011

Serial No. HL–02

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

70–865 WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HEALTH

SUBCOMMITTEE ON OVERSIGHT

WALLY HERGER, California, *Chairman,* &

CHARLES W. BOUSTANY, JR., Louisiana, *Chairman*

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also, published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

AARP'S ORGANIZATIONAL STRUCTURE, MANAGEMENT, AND FINANCES

FRIDAY, APRIL 1, 2011

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The subcommittees on Health and Oversight met, pursuant to call, at 9:00 a.m., in Room 1100, Longworth House Office Building, the Honorable Wally Herger [chairman of the subcommittee on Health] presiding.

[The advisory of the hearing follows:]

HEARING ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

Chairmen Herger and Boustany Announce Hearing on AARP's Organizational Structure and Finances

Friday, March 25, 2011

House Ways and Means Health Subcommittee Chairman Wally Herger (R–CA) and Oversight Subcommittee Chairman Charles Boustany, Jr, MD (R–LA) today announced that the Subcommittees on Health and Oversight will hold a hearing on AARP's organizational structure, management, and financial growth over the last decade. **The hearing will take place on Friday, April 1, 2011, in 1100 Longworth House Office Building, beginning at 9:00 A.M.**

In view of the limited time available to hear from witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing. A list of invited witnesses will follow.

BACKGROUND:

AARP has long held itself out as the preeminent non-profit organization representing America's seniors. However, many do not realize that AARP collects billions of dollars each year through the sale and marketing of insurance products. Additionally, memberships on AARP's corporate for-profit and tax-exempt non-profit boards overlap. Given the Committee's responsibility to conduct rigorous oversight, jurisdiction over Medicare and sale of Medicare insurance products and sole jurisdiction over the Tax Code, the Committee will review AARP's organizational structure and finances.

In announcing this hearing, Chairman Herger said, **"AARP is known for being the largest and most well known seniors' organization in the country. But what Americans don't know is that AARP was the 4**th **highest spending lobbying organization between 1998 and 2010 or that the AARP brand dominates the private Medicare insurance market. This hearing is about getting to the bottom of how AARP's financial interests affect their self-stated mission of enhancing senior's quality of life. It is important to better understand how AARP's insurance business overlaps with its advocacy efforts and whether such overlap is appropriate."**

In announcing the hearing, Chairman Boustany said, **"As one of the country's most well-known non-profits, many of America's seniors trust AARP to represent their interests. But in light of AARP's dependence on its income from insurance products, there is good reason to question whether AARP is primarily looking out for seniors or just its own bottom line. Before seniors decide whether AARP is worthy of their trust, or their hard-earned dollars, they deserve all of the facts. The purpose of this hearing is to provide a public examination of the facts so seniors can decide those questions for themselves."**

FOCUS OF THE HEARING:

The hearing will examine AARP and its affiliates, revenue, charitable giving, Boards of Directors, and lobbying expenditures.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Friday, April 15, 2011**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721 or (202) 225–3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://www.waysandmeans.house.gov/*.

Chairman HERGER. The subcommittee will come to order.

When Dr. Ethel Percy Andrus founded AARP in 1958, Medicare did not exist. Dr. Andrus understood that seniors needed access to health insurance and found a solution.

What began as an organization that filled a need not yet met by society has grown and evolved over the last 50 years into AARP, Inc. and its affiliated entities. With the establishment of Medicare in 1965, health insurance became widely accessible to seniors.

However, AARP kept on with its reported mission: to promote independence, dignity and purpose for older persons; to enhance the quality of life for older persons; to encourage older people "to serve, not to be served."

These are unquestionably laudable goals. However, as we will discuss today, Mr. Reichert, former Congresswoman Ginny Brown-Waite, and I took a closer look into AARP over the last 18 months, reviewing nearly every publicly available document, and the facts suggest that AARP has strayed from its core mission.

The facts show that AARP no longer operates like a seniors' advocacy organization. Instead, it is more closely resembles a for-profit insurance company.

In 2009, AARP raised 46 percent of its revenue from royalty payments versus just 17 percent from membership dues. While questions have indeed been raised in the past about AARP's reliance on royalties, the amount of these payments has nearly tripled just over the past decade.

AARP asserts that their policy positions are made by its all-volunteer board of directors, which is separate from its business interests. The facts show otherwise.

In 2010, the entire board of AARP Insurance Plan, which collected and processed $6.8 billion in insurance premiums in 2009, also served on the board of directors of AARP, which makes policy decisions. The AARP Insurance Plan funneled millions of dollars to AARP, Inc. in 2009.

The facts show that AARP is dependent on the hundreds of millions of dollars it receives primarily from insurance companies and could not continue to operate in its current fashion without this revenue. AARP revenue from membership dues totaled $246 million in 2009, just barely enough to cover its employee compensation and legal and accounting fees.

AARP's decision to endorse more than one-half trillion dollars in Medicare cuts to pay for a new entitlement program seemed to directly contradict its mission. This became more disconcerting when Medicare officials warned that the Medicare cuts were so severe that seniors' access to care could be jeopardized. Medicare officials also revealed that the health care law will result in a migration from Medicare Advantage to Medigap plans that could force as many as 7 million seniors to give up a plan they know and like.

What does this have to do with AARP? Well, it turns out that upon a close examination of AARP's Medicare insurance business, the facts show that AARP had a unique financial incentive that was not transparent to seniors, the public or Members of Congress during the health care reform debate. As a result of the unique contractual relationship between AARP and United Health Group, AARP stands to earn $1 billion over the next 10 years as a result of the Democrats' health care overhaul on top of hundreds of millions of dollars in insurance royalties that they currently collect.

This is just one of a number of shocking details contained in a report issued earlier this week by Mr. Reichert and me, many of which will be discussed today.

I would now like to recognize Mr. Reichert, who has been a driving force in this investigation, to make a brief opening statement.

Mr. REICHERT. Thank you, Mr. Chairman, for allowing me some time to say a few words.

First, I want to take a moment just to thank all of the volunteers that volunteer with AARP and the wonderful work that you all do. I know there are some here in the hearing room today, and some that may be listening across the Nation. Thank you for volunteering and being engaged in helping our seniors across this country.

I know that Mr. Rand and Mr. Hammond and others here representing AARP, I know your hearts are in the right place, but sometimes we can sort of find ourselves misguided and going down the wrong path. We are here today just to make sure as representatives of the people and our districts and across this country that AARP is still on the right path. Your mission statement is to make sure that you help seniors, and that is what we want to do, too. We want to help seniors and make sure that they can get the best health insurance coverage they can get so they can have the best retirement that we know they all deserve as they worked so hard during their lives.

But I sort of became very concerned back in 2007 when the first cut was mentioned to Medicare Advantage. It was a $200 million cut associated with a SCHIP vote. I was very puzzled, to be honest with you, sir, as to why AARP would support a $200 million cut to Medicare Advantage. Eventually what happened, the Senate didn't support that cut and the cut wasn't made, and SCHIP found other ways to support their financial needs.

And then along came the health care bill and a $523 billion cut to Medicare was announced as one of the mechanisms to pay for the health care bill. Close to $200 billion cuts again to Medicare Advantage were mentioned as part of the solution to finding finances to fund the health care bill.

So again I was puzzled. So myself and Mr. Herger and Ginny Brown-Waite began to generate some letters and ask some questions. Again to be honest with everyone in the room and people watching today, we did not get forthright answers. We were looking for some very simple answers to some very simple questions as to where money is going, and why it is going and why AARP supported that huge of a cut, a half a trillion dollars to Medicare. We just wanted to know on behalf of the seniors what the truth was. And we couldn't get it.

So now we find ourselves today, after 18 months of interviews and exchanging letters, and here we are today at this hearing. I wish we could have been more forthright, you could have more forthright with your answers. Hopefully today you will be, and we will be able to get to the bottom of this and make sure together that our seniors are cared for properly and that they enjoy the retirement that they deserve.

So I appreciate your presence here today and look forward to asking you some questions and getting some straight answers. Thank you.

Chairman HERGER. I thank Mr. Reichert and I thank you for your dedication for being involved in this process.

Before recognizing our Ranking Member Stark for the purposes of an opening statement, I ask unanimous consent that all members' written statements be included in the record. Without objection, so ordered.

I now recognize Ranking Member Stark for his opening statement.

Mr. STARK. Chairmen Herger and Boustany, I want to thank you both for holding this hearing. There are questions to ask of AARP; of course, we could ask those same questions of the Chamber of Commerce, which outranks AARP as the top spending on lobbying over the last 12 years, spending three-quarters of a trillion dollars lobbying over that period. We could ask the questions of American Crossroads, which was founded by Karl Rove and spent millions with its sister organization trying to defeat Democratic candidates in the last election.

But the Republicans do not seem to want to ask those questions today, and it is easy to understand why: those groups opposed the Affordable Care Act and AARP supported it. So this amounts to nothing more than a political witch hunt to punish an organization that spoke out in favor of health care reform. Any organization that would stand in the way of the goal to privatize Social Security, end Medicare, and turn senior citizens over to the mercy of private health insurance companies would be suspect.

Now, I have to admit that in the past, and even today, I have raised questions about AARP. It is true that in addition to the work that they do advocating for us elderly, they make a tremendous amount of money off businesses that they market to us. And it is no surprise to American seniors that their products make them probably the biggest player I think in Medigap, Medicare Advantage, Part D drug plans, and it is obvious to us, when you are shopping the market, that their plans are well priced and have good features.

So it is not exactly that they are hiding under a veil, as the Republicans would suggest. Many AARP members have looked forward to joining for the discounts and other deals that they get.

So they have investigated the AARP for a year. In that time, all that the Republicans have found is publicly available information. Here it is. This is all publicly available. You don't have to research anything. It is all publicly available. I must admit, I have not read through it, but it is large and heavy. It is a complex organization, all of which is legal. In fact, the information in here indicates there is nothing illegal.

I must admit that when we had Holtz-Eakin here, the President of the American Action Forum, he wouldn't answer any of our questions. He said he didn't have to and he wasn't about to, and he wouldn't explain who was funding his organization. So while he refused to disclose the information, AARP at least has been up front. It is transparent.

It seems to me and everyone sitting here today, rather than American Action Network or 60 Plus or American Crossroads or the Chamber of Commerce, we are here to discredit AARP in the minds of seniors. They know, my colleagues across the aisle, know that us seniors trust AARP and that is why the Republicans lauded AARP's endorsement of the Republican Medicare prescription drug bill in 2003, which I thought was wrong and I thought it was a bad thing for AARP to do, but the Republicans loved it.

Now, 8 years later, they are trying to break the trust that American seniors have in AARP. Before they announce a budget that will devastate Medicare, Social Security, Medicaid, the Republican plan is to privatize Social Security, block grant Medicaid, end Medicare, they would like to kind of silence AARP, and that is why we are here today.

We should see this for what it is: a waste of government time and abuse of government resources and a vindictive attempt to settle a political score and silence a voice that represents seniors.

I yield back the balance of my time, and I look forward to hearing the testimony of witnesses.

Chairman HERGER. I thank the ranking member from California, Mr. Stark.

I now recognize Dr. Boustany, chairman of the Committee on Oversight, for an opening statement.

Chairman BOUSTANY. As Chairman Herger said in his opening statement, AARP was created with the praiseworthy and noble goal of promoting independence, dignity and enhancing the quality of life for older Americans. As a physician before I came to Congress, and now as a Member of Congress, I have interacted with many volunteers in my home State of Louisiana who have done excellent work. Founded with this goal, it was incorporated under section 501(c)(4) of the Internal Revenue Code. This meant that in return for promoting social welfare and the common good, it would enjoy exemption from Federal income taxes.

Today, more than 50 years after its founding as a small nonprofit helping the retired, AARP has changed into what appears to be an insurance and advertising powerhouse. According to the most recent data we have, AARP, Incorporated and its for-profit organizations annually process billions of dollars in insurance premiums, and earned nearly $700 million in insurance revenues and over $100 million in advertising revenues.

Only a fifth of its revenue come from membership dues and contributions. Since 2002, AARP's revenue from membership dues has only increased modestly. Over that same period, however, by partnering with other companies to sell insurance, AARP has experienced gains in its royalty income that any private sector business would envy. Its revenues have nearly tripled, growing from $240 million to $657 million in 2009.

Yet as AARP, Incorporated has grown by leaps and bounds, its funding for charitable work has nearly flat-lined. Contributions to the AARP Foundation between 2002 and 2009 grew by only 11 percent, or about $3.1 million. And funding of legal counsel for the elderly actually decreased by about 9 percent. The parts of AARP that fulfill its original purpose seem not to be sharing in the bounty that has come to AARP from its insurance-related business activities.

Another concern regarding AARP is whether they provide excessive compensation to executives, which might suggest that the organization exists more for the enrichment of its officers and employees and less for the public good. In the case of AARP, executive compensation and benefits often far exceed what one might think appropriate for a tax-exempt organization. The website Charity Navigator compares the compensation of CEOs at charities and nonprofits with expenditures exceeding $500 million. And looking at these numbers, we see that compensation for AARP's top executive is a consistent outlier, reaching as high as $1.6 million in 2009.

In addition, AARP has maintained travel policies that exceed what are considered "best practice" recommendations developed by an independent oversight group which AARP's then-CEO was involved in.

The differences in revenue generated and money spent "promoting social welfare and the common good" suggest that AARP may have strayed from its original mission and brings into question whether it is appropriate for it to continue to operate as a 501(c)(4) tax-exempt organization. This is primarily a question for the IRS, and we will be asking them to conduct a review.

Let me end by saying that as chairman of the Ways and Means Subcommittee on Oversight, I take this committee's responsibilities on oversight very, very seriously and I intend to take a closer look at the IRS's administration of the tax-exempt sector and whether the IRS is adequately overseeing the practices of tax-exempt organizations.

I yield back the balance of my time.

Chairman HERGER. Thank you, Mr. Boustany. I now recognize Representative John Lewis, ranking member of the Subcommittee on Oversight, for the purposes of making an opening statement.

Mr. LEWIS. Thank you, Mr. Chairman, for holding a hearing on tax-exempt organizations. However, I do not think we should single out just one organization. While I agree that organizations that enjoy a special tax status should justify the reasons for their exemption, I know there are about 140,000 other organizations that share the same tax status.

Mr. Chairman, while it is our duty to provide oversight of the nonprofit sector, I am saddened that you have chosen to fulfill your duty in the manner displayed today. You and I both know that this hearing is politically motivated and driven by AARP's support for the Affordable Care Act.

Your report admits that all of the information contained in it came from publicly available documents, filed in accordance with the law. There is nothing new here today, nothing that is not already public, nothing that sets AARP apart, no unveiling that I can see.

I am mindful that the majority wants to cut Social Security. They want to cut Medicare. They want to cut programs that help the poor. I can only surmise that the true intent of this hearing is to harm the reputation of AARP or to silence their voice as we move closer to this debate.

If there was a plan to provide real oversight today, we will have before us other organizations who share the same tax status as AARP, like 60 Plus. We would have more organizations like Tea Party Patriots, American Crossroads GPS, and American Action Network. They all share the same tax status as AARP and played a major role in the elections.

If there was a real plan today, we would have before us a $2.2 billion a year racetrack and casino operating in Iowa under the same tax-exempt status as AARP. I find this unreal. It is unbelievable. If oversight were the true goal, we would look at the compensation paid by other tax-exempt organizations, including those that opposed health care reform, like the Chamber of Commerce, AHIP, AND NFIB. All pay their executives well, and more than AARP.

Based on all of this, I believe that there is no plan for oversight today. We have before us a single witness, a biased report, and the use of committee resources to settle a score. This is nothing other than a political witch hunt. The Ways and Means Committee is better than this.

I ask my colleagues: Who is next? Who else is on your list? My college? Your church? This is a dangerous game to play.

In closing, I am pleased to have before us today a nationally recognized expert in the law of tax-exempt organizations professor, Professor Frances Hill. She wrote one of the leading treatises in this area, and I look forward to her testimony.

I yield back the balance of my time.

Chairman HERGER. Thank you, Mr. Lewis.

I would now like to turn to the subcommittee's first panel. Today we are joined by Barry Rand, Chief Executive Officer of AARP, who is accompanied by Lee Hammond, President AARP Board of Directors. Mr. Rand, thank you for agreeing to testify today. You will have 5 minutes to present your testimony. Your entire written statement will be made part of the record.

You are now recognized for 5 minutes.

STATEMENT OF A. BARRY RAND, CHIEF EXECUTIVE OFFICER, AARP, WASHINGTON, D.C.; ACCOMPANIED BY LEE HAMMOND, PRESIDENT, AARP BOARD OF TRUSTEES

Mr. RAND. Thank you, Mr. Chairman. Good morning. I am Barry Rand, CEO of AARP. And joining me this morning is Lee Hammond, President of AARP and a member of the AARP Board of Directors. Lee, like all 22 members of our board, is an unpaid volunteer.

AARP is proud of our record. Throughout our more than 50 years of service, we have worked tirelessly to promote nonpartisan policy solutions, to improve the marketplace, to enhance the public good, especially for those 50 and older, and we will continue to do so in the future.

We are a strictly nonpartisan organization. We do our work in a very public way. Since its founding, AARP has made information about its finances, mission, and governance available to the public. We post on our Web site our annual reports, financial statements, IRS Form 990 tax returns, and detailed breakdowns of our revenues and expenditures.

This is why we are surprised and disappointed both by the title and substance of the report a few members released this week: "Behind the Veil: The AARP America Doesn't Know." There is no veil. Quite frankly, we disagree with each of the conclusions drawn in this one-sided report.

First, we reject the allegation that our public policy positions are influenced by our revenues. Our policy positions are set by our all-volunteer board of directors based on the needs of the 50-plus population. They are determined totally independent from revenue considerations. We have long maintained that we would forgo revenue in exchange for lifetime health and financial security for all older Americans. The revenues we earn from royalties allow us to keep membership dues low, currently $16 a year, while providing outstanding benefits to members and to all Americans age 50 and older.

We also reject the conclusion that we are not good stewards of our nonprofit status. The revenue that AARP receives from lending its name to products and services goes directly to fulfilling our mission and serving people 50-plus.

Our mission includes three major areas. We work to make sure that people have access to affordable, quality health care. We work to make sure that people have the opportunity to achieve lifelong financial security, and we help and empower people 50-plus to live their best lives. These are the principles AARP was founded upon.

Dr. Ethel Percy Andrus, a retired educator from California, was appalled when she discovered a retired teacher living in an old chicken coop, so she began a campaign to get affordable group medical insurance for retired teachers, creating the first group health insurance plan for people 65 and older in the country, a decade before Medicare.

In 1958, she created AARP for seniors across the country who needed health insurance for themselves. Through AARP, Dr. Andrus also envisioned a better life for seniors that included health and economic security and opportunities to remain active and productive members of society. When we look at what Dr. Andrus did, it is truly remarkable. She came up with a creative, marketplace solution to what was then considered to be an unsolvable problem: providing access to health care for seniors. She changed the market by bringing seniors together who shared those needs. We have followed Dr. Andrus' lead ever since.

Lee, our other volunteer leaders, and our dedicated staff are the guardians of that legacy today. We are leading efforts to improve life for all generations by working to provide access to quality, affordable health care, including lower prescription drug costs; improve and protect financial security, including Social Security; fighting age discrimination; and we advocate for consumers. For example, AARP has supported bipartisan legislation, including the Lifetime Income Disclosure Act, which will provide consumers with better information about their 401(k) plans.

We are also proud to endorse strengthening the Medicare Anti-Fraud Act. This bill, sponsored by the chair and the ranking member of the Health Subcommittee, empowers the government to reduce Medicare fraud.

AARP also provides direct assistance to Americans. For example, as we sit here today, more than 30,000 AARP tax aide volunteers are helping 2.6 million taxpayers prepare their taxes. In 2010, 193,000 people with low incomes received a total of $233 million in earned income tax credits. Last year, AARP volunteers helped more than 526,000 people stay safe on the roads through our driver safety program. Also in 2010, our advocacy efforts helped consumers save more than $3 billion in lower utility costs.

Last year, more than half a million people visited our "Create the Good" Web site, connecting with more than 260,000 volunteer opportunities in their communities.

Today, AARP and the AARP Foundation, in partnership with NASCAR's Jeff Gordon and Hendrick Motorsports, are leading the "Drive to End Hunger," an effort to help 6 million American seniors and another 6 million in their families who face the horror of going hungry every day.

That is AARP, working to make sure that the American dream lives on for all generations.

Thank you.

[The prepared statement of Mr. Rand follows:]

TESTIMONY IS EMBARGOED UNTIL FRIDAY APRIL 1, 2011 AT 9:00 AM

Barry Rand
Chief Executive Officer, AARP

AARP Statement
Before a Joint Hearing of
The House Ways and Means
Subcommittee on Health and
Subcommittee on Oversight

Washington, DC
April 1, 2011 at 9:00 a.m.

Good morning. I am Barry Rand, CEO of AARP. Joining me this morning is Lee Hammond, president of AARP and a member of the AARP Board of Directors.

Lee, like all 22 members of our Board, is an unpaid volunteer.

AARP is proud of our record. Throughout AARP's more than 50 years of service, we have worked tirelessly to both promote nonpartisan policy solutions and to improve the marketplace to enhance the public good, especially for those 50 and older. And we will continue to do so in the future.

We are a strictly nonpartisan organization. We don't endorse or oppose candidates. We don't give money to candidates or political parties. And, we don't have a PAC.

We do our work in a very public way. Since its founding, AARP has made information about its finances, mission, and governance available to the public. We post on our website our:

- Annual reports
- Financial statements
- IRS Form 990 tax returns
- And detailed breakdowns of our revenues and expenditures.

We've been publishing our financial statements since our founding in 1958.

This is why we are surprised and disappointed both by the title of the report a few members released this week: "Behind the Veil: The AARP America Doesn't Know" and its substance.

<u>There is no veil!</u>

Quite frankly, we disagree with each of the conclusions drawn in this one-sided report.

First, we reject the allegation that our public policy positions are influenced by our revenues. Our policy positions are set by our all-volunteer board of directors, based on the needs of the 50-plus population. They <u>are determined totally independent from revenue considerations</u>.

We have long maintained that we would forgo revenue in exchange for lifetime health and financial security for all older Americans. As an example of this, it is very likely that under the Affordable Care Act the AARP-branded insurance plans for 50 to 64 year olds will become obsolete, and we will no longer receive revenue from those plans.

The revenues we earn from royalties allow us to keep membership dues low—currently $16 a year—while providing outstanding benefits to members and to every American age 50 and over.

We also reject the conclusion that we are not good stewards of our non-profit status. The revenue that AARP receives from lending its name to products and services goes directly to fulfilling our mission and serving people 50-plus.

Our mission includes three major areas:

1. We work to make sure that people have access to affordable, quality health care.
2. We work to make sure that people have the opportunity to achieve lifelong financial security.
3. And, we help and empower people 50-plus to live their best lives.

These are the principles AARP was founded on.

Dr. Ethel Percy Andrus, a retired school teacher and principal from California, was appalled when she discovered a retired teacher living in an old chicken coop.

She decided to do something about it. With like-minded retired educators, she began a campaign to get affordable group medical insurance for retired teachers.

After being turned down by no fewer than 42 companies, she finally found one that would offer a plan to her members—creating the first group health insurance plan for people 65 and older in the country…a decade before Medicare.

Word about this insurance spread, and they became inundated with requests from seniors across the country who needed health insurance for themselves.

So, on July 1, 1958, Dr. Andrus created AARP. She did so because she envisioned a better life and brighter future for seniors so that they could live with independence, dignity and purpose—including health and economic security and opportunities to remain active, involved and productive members of society.

When we look at what Dr. Andrus did, it is really remarkable. She came up with a creative marketplace solution to what was then considered to be an unsolvable problem—providing access to affordable, quality health care for seniors.

And in the process, she learned that she could change the market to meet the unmet needs of seniors by bringing people together who shared those needs.

We have followed Dr. Andrus's lead ever since. Lee, our other volunteer leaders and our dedicated staff are the guardians of that legacy today.

Today, we continue to look for solutions to meet the unmet needs of people 50+—more than 100 million of them. We don't just advocate for government or public policy solutions; we also seek to promote marketplace solutions—just as Dr. Andrus did.

Advocacy is not our only tool. We seek to move the market by lending our name to products and services. We develop programs and bring together 50-plus volunteers to address needs in their communities and provide people 50-plus with valuable information and educational resources to help them live their best lives.

All that we do is dedicated to carrying out our mission. Our work is about making sure that everyone has an opportunity to achieve the American Dream.

We are leading efforts to improve life for all generations by working to:

- Provide access to quality, affordable health care—including lower prescription drug costs,
- Improve and protect financial security, including Social Security, and
- Fight age discrimination and advocate for consumers.

For example, AARP has supported bipartisan legislation including the Lifetime Income Disclosure Act, which will provide consumers with better information about their 401(k) plans. We were also proud to endorse the Strengthening Medicare Anti-Fraud Act. This bill—sponsored by the chair and ranking member of the health subcommittee—empowers the government to reduce Medicare fraud.

In addition to advancing our bipartisan policy goals, AARP also provides direct assistance to Americans. For example:

- As we sit here today, more than 30,000 AARP Tax-Aide volunteers are helping 2.6 million taxpayers prepare their taxes. In 2010, 193,000 people with low incomes received a total of $233 million in Earned Income Tax Credits.
- Last year, AARP volunteers helped more than 526,000 people stay safe on the roads through our Driver Safety Program.
- Also, in 2010, our advocacy efforts helped consumers save more than $3 billion in utility costs.
- Last year, we distributed more than 1.8 million publications and resources to provide people with information they need on issues such as: health care, financial security, the changing workforce, and housing.
- Last year, more than half a million people visited our "Create the Good" website to connect with more than 260,000 volunteer opportunities in their communities.
- Today, AARP and the AARP Foundation—in partnership with NASCAR's Jeff Gordon and Hendrick Motorsports—are leading the "Drive to End Hunger"—an effort to help the 6 million American seniors who face the horror of going hungry every day.

In short, we're doing what we've always done

- Working to make society better.

- Going to bat for people 50-plus and their families on issues that matter to them
- Advocating for them in the marketplace and helping to save them money
- Empowering people 50-plus to pursue their goals and dreams, and
- Fighting to make sure that everyone has a fair opportunity to achieve the American Dream.

That's the story of AARP. That's the legacy of Dr. Andrus— making sure the American Dream lives on for all generations.

I think Dr. Andrus said it best, "What we do, we do for all."

Lee and I appreciate the opportunity to appear before you this morning and answer your questions.

Thank you.

Chairman HERGER. Mr. Rand, I thank you for your testimony.

I would like to call to your attention to the monitors and the chart detailing AARP's sources of revenue. According to AARP's consolidated financial statement, AARP's royalty revenue, which comes primarily from insurance companies, was $240 million in 2002 and grew to $657 million in 2009, an increase of nearly 200 percent. During this same period AARP's revenue from membership dues, advertising and Federal and other grants, have remained relatively flat. It is safe to say that AARP could not operate or function as it does today without the money it makes from its insurance business, which certainly raises suspicion about where AARP's motives lie.

If AARP did not have the nearly one-quarter of a billion dollars in royalty payments coming in, most of which are from insurance companies, what sort of changes would AARP need to make?

Mr. RAND. Quite frankly, AARP is very proud of the fact that its membership dues are kept low. We work at keeping them low. In fact, the directive from the board is we want to keep membership dues low. We don't expect to extract incremental dollars from our membership. We invest in it. So we are proud of that particular fact.

Now, royalties, royalties from health insurance companies, royalties from financial products, royalties from other products, life-style products, we believe that part of the solution to meet the unmet needs of the 50-plus population——

Chairman HERGER. Mr. Rand, if you could answer my question. If you did not have these huge profits from the insurance companies, what would you do? What would that do to you?

Mr. RAND. It would decrease our ability to serve 100,000 50-plus and 37 million members. All of our revenue, all of our revenue, goes toward our mission.

Chairman HERGER. So in other words, this is very important, the revenues you are bringing in from the profits that are made, the royalties that are made from your insurance companies; is that not correct?

Mr. RAND. It is very important to our members and it is very important to the 100,000 50-plus.

Chairman HERGER. So, therefore, you have a great interest in those revenues, those royalties being high, as we have seen the huge increases that have taken place in a relatively short period of time?

Mr. RAND. As you know, royalties are tax exempt. But let me tell you what we do with the money.

Chairman HERGER. Just answer my question. You have a great interest in that those royalties be high because your dues would be higher if they weren't; is that correct?

Mr. RAND. Would you like me to tell you where our interests lie?

Chairman HERGER. Just yes or no. Is that correct?

Mr. RAND. Obviously, it would——

Chairman HERGER. Answer the question, please.

Mr. RAND. The answer is we have an interest in meeting the unmet wants and needs of our population. That is what our interest is. This is not something that we devise. All of these insurance products come from our members and the 50-plus population who say we have these needs. They give us their needs and wants, and if they are in the insurance area, we convey those to potential providers of insurance. That is what we do.

Chairman HERGER. I understand. Again, I would appreciate if you keep to answering my question, if you would. I thank you for that.

You stated in your testimony under the Democrat health care overhaul, that the AARP's branded insurance plans for 50 to 64-year-olds will become obsolete and AARP will no longer receive revenues from those plans.

Can we take from that statement that AARP will not endorse or sell insurance in the government-run exchanges and that AARP will not accept any royalty or commission payments or licensing fees from any insurance plan operating in the exchange? And will you make that commitment today?

Mr. RAND. We don't sell insurance, Mr. Chairman.

Chairman HERGER. You do receive royalties which would rank you as the sixth largest health insurance company in the United States; is that not correct?

Mr. RAND. The answer is that we are not an insurance company. We do not sell insurance. We don't underwrite any insurance.

Chairman HERGER. Do you not receive the sixth highest royalties of any insurance company in the United States?

Mr. RAND. Excuse me. Could you just repeat it?

Chairman HERGER. Do you not, AARP, does not AARP in royalties receive the highest, the sixth highest profits of any health insurance company in the United States? Is that not a correct statement?

Mr. RAND. It is not correct. We don't receive profits, sir.

Chairman HERGER. Royalties.

Mr. RAND. I don't know what the——

Chairman HERGER. You receive royalties that would rank you, and again this is public information, that would rank you as the sixth largest for-profit, were you a for-profit, which the IRS does not rank you as, and that is one of the purposes of this hearing, would rank you as if you were an insurance company. Well, anyway your public information would indicate that.

Mr. RAND. Yes.

Chairman HERGER. Finally, I would like to highlight the recent comment from an AARP spokesman that, quote, "AARP is committed to transparency, and the hearing will provide us yet another opportunity to answer any questions."

I found this quote somewhat refreshing given AARP's repeated refusal for 18 months to provide members of this committee financial documents relating to the AARP Insurance Plan, AARP Services, and details about AARP's Medicare insurance contracts. Given your new commitment to transparency, I have a few questions I would like you to answer or to commit to answering on the record.

In 2007, AARP retained 4 percent of every Medigap insurance premium it received. In 2009, AARP retained 4.95 percent of premiums paid for every AARP Medigap policy. Could you tell us how you decided on 4.95 percent and what went into that conclusion? What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?

Mr. RAND. May I address your premise?

Chairman HERGER. I would like you to address my question.

Mr. RAND. That is what I think I am trying to do.

Chairman HERGER. Premise and question are two different things. If you can address my question.

What went into your decision for AARP to increase its royalties from 4 percent to 4.95 percent, first of all? And what percentage do you anticipate that AARP will keep from each year from 2011 to 2017? So if you could address my question, please.

Mr. RAND. Number one, the royalties have nothing to do with the premiums of the beneficiaries. Nothing to do with the premiums.

The premiums——

Chairman HERGER. That is not my question. I asked you what went into your decision that it would be 4 percent and what went into your decision to increase it from 4 to 4.95? That is my first question.

Mr. RAND. That was simply a renegotiation between United and AARP.

Chairman HERGER. Could you tell us what percentage AARP Medigap premiums, what you will keep in each of the years, the year we are in, 2011 through 2017, which is what your contract runs for? Will it go up again? Will it remain at 4.95?

Mr. RAND. I can't answer the future. We have not talked about that.

Chairman HERGER. Okay. How much money did AARP earn on investing seniors' insurance premium money before kicking a portion of the premiums back to United in 2008, 2009, and 2010?

Mr. RAND. The premiums from the beneficiaries since 1958 have gone into a trust, a legal trust. It has been the collecting portion of these checks and beneficiary——

Chairman HERGER. Again, if you can ask my question. That is public information that you are stating. We all know that. What we don't know and what you would not answer when we requested from you and what my question is: What portion of the premiums did you give back to United, money before kicking in a portion?

Mr. RAND. All of the money that we took——

Chairman HERGER. How much did you earn in investment before giving it back? That is my question which is not public record.

Mr. RAND. Do you mind if I answer it in two parts, sir?

Chairman HERGER. If you answer it, yes.

Mr. RAND. The first part, any interest that we have goes back to our mission which means it goes back to the 50-plus——

Chairman HERGER. That is not answering my question. You have stated that already. Could you be precise in answering my question which you are avoiding and which you would not answer for 18 months?

Mr. BECERRA. Mr. Chairman, I am not certain what is going on here, but to some degree the witness is entitled to an opportunity to try to respond. If the chairman or any member does not believe that is responsive, and certainly we are entitled, as members, to try to extract as best an answer as we can. But at this stage I think you are preventing the witness from responding.

Chairman HERGER. The gentleman has not been recognized.

Let me just say that I will take that as you refuse to answer my question.

Mr. RAND. No, I am. No.

Chairman HERGER. Either answer my question or we will move on to the next one because you are not answering the questions I am asking you.

Mr. RAND. All of the money that we have that comes out of the trust in interest goes to our mission. None of the money is taken out of any of the premiums——

Chairman HERGER. Mr. Rand, let me say for the third or fourth time, that is not the question I asked. I asked what is that amount. I will take that to be as you are refusing to answer my question, and I will move on.

Mr. RAND. Now that I understand the specificity of your question, over the years the interest earned from the trust, which is AARP's trust, is—would vary anywhere from $60 million to $90 million depending on the years.

Chairman HERGER. Thank you. I would like you to answer that maybe in writing if you don't have that to our committee.

How much does AARP receive annually for the years of use of AARP's brand for AARP Medicare Advantage insurance plans and AARP Medicare prescription drug insurance plans each year over the course of the current contract?

Mr. RAND. I can give you a cumulative answer, if that will suffice, because I don't have it by the individual insurance products. It is roughly $420 million, $430 million that we get in royalties from United Health Care from their ability to use our brand on their products.

Chairman HERGER. I believe that is already publicly known. Could I request you to respond in writing to that?

Mr. RAND. We can respond in writing, yes.

Chairman HERGER. With the answer?

Mr. RAND. Yes.

Chairman HERGER. I thank you.

[The information follows: [The Honorable Mr. Herger, The Honorable Mr. Boustany, and The Honorable Mr. Reichert-Letter to AARP]

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 21, 2011

A. Barry Rand
Chief Executive Officer
AARP, Inc.
601 E Street, NW
Washington, DC 20049

Dear Mr. Rand,

Thank you for testifying at the April 1, 2011 joint hearing of the Committee on Ways and Means Subcommittees on Health and Oversight. Based upon comments you or Lee Hammond, President of AARP, Inc., made at the hearing, there are a number of documents and answers that AARP agreed to provide the Subcommittees. Likewise, there are unresolved matters or areas that require further clarification. To that end, this letter is intended to follow up on those matters.

In order to clearly delineate the source of the inquiries, questions have been divided into the following categories:

1. Information you or Lee Hammond agreed to provide the Subcommittees during the hearing;

2. Questions and clarifications related to possibly inaccurate or incomplete statements made during the hearing, including inaccuracies brought to Committee staff's attention by AARP's outside counsel; and

3. Outstanding questions you either failed to answer at the hearing or previously refused to address, but that we hope you will now provide given your organization's recently stated commitment to transparency.

Furthermore, while you were the official witness on behalf of AARP, Inc. and its affiliates, per your outside counsel's request, the Subcommittees allowed Mr. Hammond to accompany you at the witness table for the purpose of assisting you in answering questions to which you might not have the answer readily available. Accordingly, some of the questions below are based on statements made during the hearing by Mr. Hammond. Given the time you have had to review these matters, we expect complete answers to all questions.

Information Mr. Rand or Mr. Hammond agreed to provide the Subcommittees.

1. Royalty amounts that AARP receives, on an annual basis, for the Medicare Advantage (MA) and Medicare Part D prescription drug plans under AARP's current contract with United, which runs through 2014. Please list the royalty amount separately for each insurance product type.

2. The amount of money AARP earned on the interest from holding insurance premiums for AARP-branded insurance products and the amount of taxes paid, if any, on the interest earned, in each of the last ten years. Also provide the length of time the premium money is held by AARP, in accordance with the contracts, for each AARP-branded insurance product.

3. Clarification of whether AARP, Inc. or any of its affiliated entities employ or contract with actuaries. If there are actuaries employed by or under contract, please detail how many, in what organization they are employed, and their primary job responsibilities.

4. Information on every meeting with individuals representing the White House and the Obama Administration that included an AARP representative, whether employed by AARP or contracting with AARP, the dates of those meetings, and the names of White House and Administration representatives at such meetings from 2009 through 2011 where health care was discussed.

5. A detailed description and funding amount of the member services provided to AARP members today that were not provided in 2002.

Questions and clarifications related to certain statements (including omissions) made during the hearing, including inaccuracies brought to Committee staff's attention by AARP, Inc.'s outside counsel.

6. When asked, "What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?" you responded that, "I can't answer the future. We have not talked about that."

   Given that AARP's Medigap contract with UnitedHealth Group runs through 2017, the royalty payment (defined as percentage of Medigap premiums retained by AARP) that AARP receives in future years covered under the contract should be readily available. Please provide us with information detailing the percentage of the Medigap premium that AARP will receive in 2011 through 2017.

7. When you were asked if AARP makes money off of its NASCAR sponsorship you replied, "We don't make any money on this."

   However, according to NASCAR's announcement of the AARP deal: "Sales will be managed by Kyle Lewis, AARP vice president of business development, and Andrew Campagnone, senior vice president of motorsports for Wunderman, who helped put together the deal...[AARP] expects to have no problem recouping its investment in the car or collecting donations for its effort to end hunger. It plans to set a benchmark early next year for how much of every dollar it raises is directed to fighting hunger."

   Given this statement, please clarify whether or not AARP, Inc. or any of its affiliates, will receive revenue from selling advertisement space on the car. If so, how much has AARP received thus far? How much will AARP receive over the next three years of the sponsorship deal, in accordance with advertising contracts with other entities that have already been signed? Additionally, how much of every dollar of advertising revenue will be directed to this hunger initiative that are not related to overhead costs?

8. You claimed that AARP does not collect Medigap insurance premiums from seniors and that AARP does not receive royalty payments for the sale of AARP-branded Medigap insurance plans. Your claim is inconsistent with AARP's most recent Notes to Consolidated Financial Statements which state that the AARP Insurance plan, "a grantor trust, holds group policies, and maintains depository accounts to initially **collect insurance premiums** received from participating members. In accordance with the agreement referenced above [contracts with UnitedHealth Group, Metropolitan Life Insurance Company, Genworth Life Insurance Company, and Aetna Life Insurance Company], **collections are remitted to third party insurance carriers within contractually specified periods of time, net of the contractual royalty payments that are due to AARP, Inc.,** which are reported as royalties in the consolidated statement of activities." (*emphasis added*)

   Additionally, please see the enclosure showing AARP and UnitedHealth Group's Medigap insurance filing with the Rhode Island Department of Business Regulation's Division of Insurance Regulation in 2010. This filing shows that 4.95 percent of the Medigap premiums are classified in the filing as "royalties." These royalties are presumably being paid to AARP.

   Given these facts, we would like to provide you with the opportunity to correct what appears to be a clear misstatement. Which entity collects premiums directly from Medicare beneficiaries for AARP-branded Medigap insurance policies? Further, what percentage of this premium does AARP retain before sending the remainder to UnitedHealth Group in 2011? What percentage of premium payments will AARP retain in each of the remaining years on AARP's current Medigap contract with United?

9. With regard to the interest AARP earns by keeping Medicare beneficiaries' insurance premiums, you stated that the premium revenue is held in a "simple interest-bearing account." AARP's outside counsel clarified after the hearing that the Medicare beneficiaries' premium money is also invested by AARP in other ways, including securities.

   Please provide a detailed account of what your outside counsel meant by "other investments" when he wrote "the Trust assets are held not only in an interest bearing account, but they are also invested in securities and other investments." Also, provide the total premium dollar amount that the AARP Insurance Plan and AARP, Inc. have invested since 2002; what percentage of that annual total was invested in securities and what remained in an interest bearing account; and specify the industry sectors in which these "other investments" are made.

10. When asked if AARP Services has any role whatsoever in setting insurance premiums or rates, you stated, "The answer is no."

    However, AARP's outside counsel informed staff after the hearing that, in fact, AARP Services, Inc. (ASI) does "review" premium rates and may negotiate with the insurance carriers so that such rates are deemed "reasonable" by AARP standards. Once ASI and AARP's insurance partners come to an agreement, AARP's Insurance Plan must approve the premium rate. If approved, the rate is forwarded to the state insurance commissioners.

    We would like to give you the opportunity to answer the question again. What role does AARP Services have in setting the premiums for AARP-branded insurance products? Is AARP's Insurance Plan's Board of Directors responsible for approving insurance premiums for AARP-branded insurance products? If so, which products?

11. When questioned about which AARP entity oversees its insurance contracts, Mr. Hammond responded that "they are not overseen by the [AARP, Inc.] board, they are overseen by [AARP Services, Inc.], which is our for-profit. They manage and oversee the contracts." It is important to note that in 2010, two of AARP, Inc.'s Directors also served on the board of AARP Services.

    Based upon the information received from AARP's outside counsel described above, including the fact that the AARP Insurance Plan Board must approve the contract and premiums and that this group was entirely comprised of AARP, Inc. directors in 2010, on what is the basis for your assertion that the AARP, Inc. board does not oversee the contract with UnitedHealth Group?

12. Mr. Hammond claimed there are "basically three different boards involved in the AARP organization." Mr. Hammond mentioned the boards of AARP, Inc., AARP Services, Inc., and the AARP Foundation. However, Mr. Hammond failed to recall the AARP Insurance Plan board, which processed $6.8 billion in insurance premiums in 2009 and claimed seven AARP, Inc. Directors as its entire board in 2010. When asked if the three boards identified by Mr. Hammond are located in the same office, Mr. Hammond responded, "They have three different offices. They meet at three different spots."

    However, AARP, Inc. and the AARP Foundation both list 601 E Street, NW, Washington, DC 20049 as its address. Do you stand by Mr. Hammond's claim that AARP, Inc. and the AARP Foundation have different offices?

Outstanding questions that AARP, Inc. either failed to fully answer at the hearing or has previously refused to answer.

13. You were asked twice, by two different members, whether AARP would commit to forgoing any Exchange insurance product-related revenue, whether by royalty commission, or otherwise, beginning in 2014. You failed to answer the question both times it was asked. We would like you to answer this very simple question:

    Will AARP commit to not endorsing or selling insurance in the government-run Exchanges? Will AARP decline any royalty, commission payments, licensing fees, or revenue from any insurance company that is related to an insurance product offered in the Exchange?

14. When asked why the AARP, Inc.'s cash and in-kind contributions have not kept pace with AARP's royalty revenues growth and how this comports with AARP's tax-exempt status, you simply responded that "All of our money does go to our mission."

    Please provide a detailed and specific accounting – by program and dollar amount - of how AARP's $1.4 billion in total operating revenue was spent in 2009 to further AARP's mission. As part of that, please indicate how AARP spent the more than $600 million of royalty revenues it collected in 2009, derived primarily from insurance companies, that were not provided to the AARP Foundation or AARP's Legal Counsel for the Elderly. In addition to specific programmatic spending, please provide an explanation of how the activity is related to AARP's mission. Please subtract any taxpayer-funded grant money from your calculations of how AARP spent its revenue in 2009.

15. When asked how many millions of dollars AARP receives from its Medigap insurance business, you responded that, "We will provide any of your asks that we can—that we have sole control over." As you have complete information about how much money AARP receives from its insurance business, please indicate how much money AARP has been or will be paid by UnitedHealth Group, in each year of its current contract, in direct royalty payments from the sale of AARP-branded Medigap insurance policies.

Again, thank you for participating in the Subcommittees' hearing. We look forward to reviewing your responses. Please provide this information to our offices no later than May 5, 2010. Thank you in advance for your cooperation and commitment to transparency.

Sincerely,

Wally Herger
Chairman
Subcommittee on Health

Charles Boustany, Jr., MD
Chairman
Subcommittee on Oversight

Dave Reichert
Member of Congress

Enclosure

Attachment 12

Rhode Island
2010 Expenses by Category

Standardized Plans

Member Contribution	$10,557,791
Average Lives	5,418

Expenses	% of Member Contribution	PMPM
Royalty	4.95%	$8.04
Premium Taxes	2.00%	$3.25
Risk and Profit	1.85%	$3.00
Operating Expenses	4.49%	$7.29
Sales Expenses	4.17%	$6.77
Commissions	0.71%	$1.15
Investment Income Credit	-0.58%	($0.94)
Total Expenses	17.59%	$28.56

I now recognize the ranking member, Mr. Stark, for 5 minutes.

Mr. STARK. The report from my colleagues across the aisle raises some objections to the AARP sponsoring NASCAR driver Jeff Gordon. This raises questions, according to their report, about whether scarce taxpayer dollars are being used to sponsor a NASCAR team. You do sponsor a NASCAR team?

Mr. RAND. The answer is yes. We sponsor what we call the Drive to End Hunger car.

Mr. STARK. I guess if it is bad for AARP to do that with taxpayers dollars, it is okay for the Pentagon to do it?

I would like to insert in the record the rollcall vote of February 18 of this year, an amendment offered by Ms. McCollum of Minnesota that would eliminate $7 million in funding used by the Department of Defense to sponsor a NASCAR vehicle. I would also note that my colleagues, Mr. Herger, Mr. Boustany, and most of the Republicans on this committee, voted against that amendment. So if you did vote with us, the four who did in eliminating this funding, Mr. Tiberi, Mr. Mr. Ryan, Mr. Reichert, and Ms. Jenkins, thank you. But it seems to me there is a difference here that it is okay to spend taxpayer funds on NASCAR by the Department of Defense, maybe it helps them to learn how to fly those airplanes, or whatever they are doing, but then to insinuate that you all, AARP, was doing something sinister, that just doesn't seem quite right to me. And I wonder, Mr. Rand, can you explain why AARP makes this investment in NASCAR and why you think it is valuable?

[The information follows The Honorable Mr. Stark, Submission 1, Submission 2, Submission 3:]

AMERICAN ACTION
FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

AMERICAN ACTION
FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

AMERICAN ACTION
FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

Mr. RAND. Well, number one, we don't make the investment in NASCAR, we are making the investment in a coalition of both awareness and partners to end what is an insidious issue in America, which is 51 million people who suffer from hunger, who go to bed every night struggling to figure out how to get their next meal.

Mr. STARK. So you make money?

Mr. RAND. We don't make any money on this.

Mr. STARK. There is revenue that comes out of this NASCAR thing?

Mr. RAND. No, we take our revenue and invest in this issue.

Mr. STARK. Which is to help?

Mr. RAND. End hunger, bring attention to hunger, have partners to help us with hunger, to figure out how we can have a national network that helps with the infrastructure, access to food, delivery of food, awareness of the issue.

We believe that we have over 6 million seniors who suffer. We have another 6 million that includes their family, that is 12 million.

Mr. STARK. Thank you. Now, can you explain what the Department of Defense does with the money they make on their NASCAR involvement?

Mr. RAND. I can't, sir.

Mr. STARK. Do you suppose they bomb Yemen? Do you have any ideas what they might do with it?

Mr. RAND. No, sir.

Mr. STARK. I don't either. It seems to me if it is all right for our people in uniform, it ought to be all right for us old folks who haven't worn the uniform for 40 years. Does that make sense to you?

Mr. RAND. It makes sense to me.

Mr. STARK. All right.

Thank you. Thank you, Mr. Chairman. We have a new chairman. Thank you. I yield back the balance of my time.

Chairman BOUSTANY. [Presiding.] Thank you, Mr. Stark.

Mr. Rand, I want to put a chart up, and it is chart number 7. If we can put the chart up on the screen for the viewing audience. I would like to call your attention to chart 7 because to maintain tax-exempt status an organization must be operated exclusively for the promotion of social welfare and be primarily engaged in promoting the common good. This chart is derived from your consolidated financial statements. The red line shows royalty revenue. It shows royalty revenue, including payments from insurance companies with remarkable growth of a 200 percent increase from the year 2002 to 2009. The last figure in 2009 was $657 million. Down at the bottom are dollars transferred from AARP, Incorporated, to AARP's legal counsel which actually shows a decrease of $300,000 over that time period. And dollars in the blue would be dollars transferred from AARP, Incorporated, to the AARP Foundation, which was $3.1 million.

So in looking at this, the for-profit entities which brought in these royalty revenues in your charitable mission, the growth has not kept pace, and so this calls into question in my mind are we really meeting that obligation as a 501(c)(4) with your charitable contributions? How does that comport with AARP's tax-exempt status, sir?

Mr. RAND. All of our money does go to our mission. There may be a particular program that has not kept pace with investment, but I will tell you that with——

Chairman BOUSTANY. When you say mission, are you referring to——

Mr. RAND. Our social mission.

Chairman BOUSTANY. There are at least $414 million on the table here if you just do some simple math. I am just wanting an explanation of the discrepancy here. It seems to me that those bottom lines would not be flat or showing a decrease over the time period.

Mr. HAMMOND. Mr. Chairman, may I answer with some information here?

Chairman BOUSTANY. Yes, sir.

Mr. HAMMOND. I think part of the problem comes in looking at the difference between a 501(c)(4) and 501(c)(3).

Chairman BOUSTANY. I understand that.

Mr. HAMMOND. I know you understand it, but the definition and requirements for a 501(c)(4) are considerably different than for a 501(c)(3).

Chairman BOUSTANY. I understand, and am going to get to that in a moment.

Let's move on to something else. I want to follow up on part of the inquiries that Mr. Herger was working on. In looking at the Medigap policies, I understand that you have licensing agreements with insurance companies; is that correct, sir?

Mr. RAND. We have an arrangement where we have our brand that is lent to them.

Chairman BOUSTANY. This is a licensing agreement?

Mr. RAND. You can call it a licensing agreement. We call it a royalty.

Chairman BOUSTANY. Okay. Well, I am going to get to the definition of royalty in a moment.

Chairman BOUSTANY. Under the immediate cap arrangement only dues-paying members, AARP dues-paying members, are allowed to participate in these Medigap policies; is that correct, sir?

Mr. HAMMOND. Sir, again, if I could.

Chairman BOUSTANY. Mr. Rand runs the organization. Mr. Rand, can you answer that question?

But is it only dues-paying members that are allowed to participate in the AARP Medigap arrangement with the insurance companies?

Mr. RAND. I believe we have some products that you don't have to be a——

Chairman BOUSTANY. No, no. I am talking specifically about Medigap.

Mr. RAND. When you start out, the answer is yes.

Chairman BOUSTANY. Okay.

Mr. RAND. Some leave the program, and they stay with the insurance, and we are happy they stay with the insurance.

Chairman BOUSTANY. Okay, okay. Fair enough, fair enough.

And you receive in this arrangement—at least based on the information we have gathered from public records and so forth and your consolidated statement—you receive the premiums that are collected from these beneficiaries in the Medigap policies; is that correct, sir? You collect the premiums.

Mr. RAND. They are collected in the trust fund.

Chairman BOUSTANY. Right, the grantor trust.

Mr. RAND. That is correct.

Chairman BOUSTANY. Which is part of AARP?

Mr. RAND. That is correct.

Chairman BOUSTANY. Right.

Mr. RAND. Since 1958.

Chairman BOUSTANY. That is right. And you have retained 4.95 percent of those premiums as royalty?

Mr. RAND. No, sir, that is incorrect. We don't retain any of the premiums. Those premium dollars are written to the specific insurer, United or any of the other insurers.

Chairman BOUSTANY. No, I understand they are written to the insurer, but you have an arrangement whereby you retain a royalty.

Mr. RAND. No, sir.

Chairman BOUSTANY. What is this 4.95 percent?

Mr. RAND. It does not come out of the premiums. The premiums go into the trust fund, sir.

Chairman BOUSTANY. Okay.

Mr. RAND. They are then matched.

Chairman BOUSTANY. So is this a separate royalty payment by the insurance company?

Mr. RAND. No, sir.

Chairman BOUSTANY. Where does the money come from?

Mr. RAND. If I could just complete one statement——

Chairman BOUSTANY. Go ahead, sir.

Mr. RAND. Perhaps I could be clearer.

Chairman BOUSTANY. Go ahead, sir.

Mr. RAND. The trust fund is a collection that the beneficiaries send their checks. There are 2- to 2.5 million checks and wires that come in. They get collected, and they are given to the appropriate insurer, whether it is United or Aetna or Genworth. That is part of the administration that the trust has.

Chairman BOUSTANY. Okay. So this is an administrative fee, you are saying? Because I have a document here from Rhode Island, the State of Rhode Island, that shows total member contributions, lives covered, it breaks it all down. And it says, royalty to AARP, percent of member contribution, 4.95 percent.

Mr. RAND. That is the royalty, sir.

Chairman BOUSTANY. Well, that is what I asked you in the first place.

Mr. RAND. I know, but royalty has nothing to do—royalty has nothing to do with the trust fund. The trust fund just takes the beneficiary's payment to United or Genworth or any other insurance provider, collects the dollars, and transfers it to the appropriate insurers. That is all it does.

Chairman BOUSTANY. So the 4.95 percent is not going to——

Mr. RAND. The royalty fee associated with our contract or a contract that talks about we are going to lend you our AARP logo if you do certain things associated with improving insurance products to our members and people 50-plus.

Chairman BOUSTANY. So does the 4.95 percent go to the grantor trust, does it go to AARP, Inc.?

Mr. RAND. It goes to us in revenue.

Chairman BOUSTANY. I know, but what entity?

Mr. RAND. AARP.

Chairman BOUSTANY. AARP. Okay. Well, let us leave that for the moment.

Royalty income, which is excluded from unrelated business income under section 512(b) of the Tax Code, has often raised a number of questions, and there has been litigation. And while royalty income that is excluded under UBIT—under the code is an issue that is difficult, you know, a lot of times it relates to intangible property, it is my understanding that, putting aside the 4.95 percent issue, which you classified as royalty earlier, you also retain these premiums for an unspecified period of time. I am not certain what that period of time is. Can you tell us how long AARP or an entity of AARP holds on to those collected premiums in Medigap?

Mr. RAND. There are two processes. The first process is the collection process. There may be 2- to 2.5 million, either electronic—6 percent is electronic; the rest is mail. Those are sorted through for the various accounts, i.e., United; i.e., Genworth. So that is an administrative process.

That administrative process can take anywhere from a week to 2 weeks or 3 weeks depending on how these checks come in. For that period of time, as we are amalgamating the checks for payment, that trust, financial prudence, is also in an interest-bearing account.

Chairman BOUSTANY. Are there other investments besides a just simple interest-bearing account?

Mr. RAND. As the money comes in, it is in an interest-bearing account. There is no other money in there. Interest-bearing account.

Chairman BOUSTANY. Okay.

Mr. RAND. For that week or 2 weeks, or 3 weeks, we earn a small interest, as any interest-bearing account, as your own checking account that you may have which is interest bearing.

Chairman BOUSTANY. I understand.

Mr. RAND. That is one issue, and I think that is the one that you are trying to get to. That interest has nothing to do with the insurance companies. It does not affect any of the payments associated with the beneficiaries.

Chairman BOUSTANY. And you pay tax on that interest?

Mr. RAND. I believe we do, but I don't know.

Chairman BOUSTANY. Okay.

Mr. RAND. I mean, I will find out for you.

Chairman BOUSTANY. Yes. If you would get us the answer on that.

Mr. RAND. I will find out for you, and we will get you that information.

Chairman BOUSTANY. Okay. And if you would get us some idea of how much you earn with that, I mean, what kinds of interest earnings do you get on that and the tax paid on it, that would be helpful.

Mr. RAND. We will give you all that information, sir.

Chairman BOUSTANY. Thank you, sir.

Chairman BOUSTANY. Now, you mentioned there is another aspect to this. Well, let me back up a moment. This is all set by contractual arrangement?

Mr. RAND. The trust was set by a contractual arrangement in 1958.

Chairman BOUSTANY. No, no, no, but I understand that.

But you have a separate contract with United, for instance, or Genworth for the handling of these premium dollars which specifies how long you might hold on to it?

Mr. RAND. No.

Chairman BOUSTANY. There are no contracts?

Mr. RAND. Well, we have a contract to do the administration for them.

Chairman BOUSTANY. Can you provide us with those contracts, provide the committee?

Mr. RAND. Yes, we can.

Chairman BOUSTANY. Thank you, sir.

[The information follows: The Honorable Mr. Herger, The Honorable Mr. Boustany, and The Honorable Mr. Reichert-Letter to AARP]

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 21, 2011

A. Barry Rand
Chief Executive Officer
AARP, Inc.
601 E Street, NW
Washington, DC 20049

Dear Mr. Rand,

Thank you for testifying at the April 1, 2011 joint hearing of the Committee on Ways and Means Subcommittees on Health and Oversight. Based upon comments you or Lee Hammond, President of AARP, Inc., made at the hearing, there are a number of documents and answers that AARP agreed to provide the Subcommittees. Likewise, there are unresolved matters or areas that require further clarification. To that end, this letter is intended to follow up on those matters.

In order to clearly delineate the source of the inquiries, questions have been divided into the following categories:

1. Information you or Lee Hammond agreed to provide the Subcommittees during the hearing;

2. Questions and clarifications related to possibly inaccurate or incomplete statements made during the hearing, including inaccuracies brought to Committee staff's attention by AARP's outside counsel; and

3. Outstanding questions you either failed to answer at the hearing or previously refused to address, but that we hope you will now provide given your organization's recently stated commitment to transparency.

Furthermore, while you were the official witness on behalf of AARP, Inc. and its affiliates, per your outside counsel's request, the Subcommittees allowed Mr. Hammond to accompany you at the witness table for the purpose of assisting you in answering questions to which you might not have the answer readily available. Accordingly, some of the questions below are based on statements made during the hearing by Mr. Hammond. Given the time you have had to review these matters, we expect complete answers to all questions.

Information Mr. Rand or Mr. Hammond agreed to provide the Subcommittees.

1. Royalty amounts that AARP receives, on an annual basis, for the Medicare Advantage (MA) and Medicare Part D prescription drug plans under AARP's current contract with United, which runs through 2014. Please list the royalty amount separately for each insurance product type.

2. The amount of money AARP earned on the interest from holding insurance premiums for AARP-branded insurance products and the amount of taxes paid, if any, on the interest earned, in each of the last ten years. Also provide the length of time the premium money is held by AARP, in accordance with the contracts, for each AARP-branded insurance product.

3. Clarification of whether AARP, Inc. or any of its affiliated entities employ or contract with actuaries. If there are actuaries employed by or under contract, please detail how many, in what organization they are employed, and their primary job responsibilities.

4. Information on every meeting with individuals representing the White House and the Obama Administration that included an AARP representative, whether employed by AARP or contracting with AARP, the dates of those meetings, and the names of White House and Administration representatives at such meetings from 2009 through 2011 where health care was discussed.

5. A detailed description and funding amount of the member services provided to AARP members today that were not provided in 2002.

Questions and clarifications related to certain statements (including omissions) made during the hearing, including inaccuracies brought to Committee staff's attention by AARP, Inc.'s outside counsel.

6. When asked, "What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?" you responded that, "I can't answer the future. We have not talked about that."

   Given that AARP's Medigap contract with UnitedHealth Group runs through 2017, the royalty payment (defined as percentage of Medigap premiums retained by AARP) that AARP receives in future years covered under the contract should be readily available. Please provide us with information detailing the percentage of the Medigap premium that AARP will receive in 2011 through 2017.

7. When you were asked if AARP makes money off of its NASCAR sponsorship you replied, "We don't make any money on this."

   However, according to NASCAR's announcement of the AARP deal: "Sales will be managed by Kyle Lewis, AARP vice president of business development, and Andrew Campagnone, senior vice president of motorsports for Wunderman, who helped put together the deal...[AARP] expects to have no problem recouping its investment in the car or collecting donations for its effort to end hunger. It plans to set a benchmark early next year for how much of every dollar it raises is directed to fighting hunger."

   Given this statement, please clarify whether or not AARP, Inc. or any of its affiliates, will receive revenue from selling advertisement space on the car. If so, how much has AARP received thus far? How much will AARP receive over the next three years of the sponsorship deal, in accordance with advertising contracts with other entities that have already been signed? Additionally, how much of every dollar of advertising revenue will be directed to this hunger initiative that are not related to overhead costs?

8. You claimed that AARP does not collect Medigap insurance premiums from seniors and that AARP does not receive royalty payments for the sale of AARP-branded Medigap insurance plans. Your claim is inconsistent with AARP's most recent Notes to Consolidated Financial Statements which state that the AARP Insurance plan, "a grantor trust, holds group policies, and maintains depository accounts to initially **collect insurance premiums** received from participating members. In accordance with the agreement referenced above [contracts with UnitedHealth Group, Metropolitan Life Insurance Company, Genworth Life Insurance Company, and Aetna Life Insurance Company], **collections are remitted to third party insurance carriers within contractually specified periods of time, net of the contractual royalty payments that are due to AARP, Inc.,** which are reported as royalties in the consolidated statement of activities." (*emphasis added*)

   Additionally, please see the enclosure showing AARP and UnitedHealth Group's Medigap insurance filing with the Rhode Island Department of Business Regulation's Division of Insurance Regulation in 2010. This filing shows that 4.95 percent of the Medigap premiums are classified in the filing as "royalties." These royalties are presumably being paid to AARP.

   Given these facts, we would like to provide you with the opportunity to correct what appears to be a clear misstatement. Which entity collects premiums directly from Medicare beneficiaries for AARP-branded Medigap insurance policies? Further, what percentage of this premium does AARP retain before sending the remainder to UnitedHealth Group in 2011? What percentage of premium payments will AARP retain in each of the remaining years on AARP's current Medigap contract with United?

9. With regard to the interest AARP earns by keeping Medicare beneficiaries' insurance premiums, you stated that the premium revenue is held in a "simple interest-bearing account." AARP's outside counsel clarified after the hearing that the Medicare beneficiaries' premium money is also invested by AARP in other ways, including securities.

   Please provide a detailed account of what your outside counsel meant by "other investments" when he wrote "the Trust assets are held not only in an interest bearing account, but they are also invested in securities and other investments." Also, provide the total premium dollar amount that the AARP Insurance Plan and AARP, Inc. have invested since 2002; what percentage of that annual total was invested in securities and what remained in an interest bearing account; and specify the industry sectors in which these "other investments" are made.

10. When asked if AARP Services has any role whatsoever in setting insurance premiums or rates, you stated, "The answer is no."

    However, AARP's outside counsel informed staff after the hearing that, in fact, AARP Services, Inc. (ASI) does "review" premium rates and may negotiate with the insurance carriers so that such rates are deemed "reasonable" by AARP standards. Once ASI and AARP's insurance partners come to an agreement, AARP's Insurance Plan must approve the premium rate. If approved, the rate is forwarded to the state insurance commissioners.

    We would like to give you the opportunity to answer the question again. What role does AARP Services have in setting the premiums for AARP-branded insurance products? Is AARP's Insurance Plan's Board of Directors responsible for approving insurance premiums for AARP-branded insurance products? If so, which products?

11. When questioned about which AARP entity oversees its insurance contracts, Mr. Hammond responded that "they are not overseen by the [AARP, Inc.] board, they are overseen by [AARP Services, Inc.], which is our for-profit. They manage and oversee the contracts." It is important to note that in 2010, two of AARP, Inc.'s Directors also served on the board of AARP Services.

    Based upon the information received from AARP's outside counsel described above, including the fact that the AARP Insurance Plan Board must approve the contract and premiums and that this group was entirely comprised of AARP, Inc. directors in 2010, on what is the basis for your assertion that the AARP, Inc. board does not oversee the contract with UnitedHealth Group?

12. Mr. Hammond claimed there are "basically three different boards involved in the AARP organization." Mr. Hammond mentioned the boards of AARP, Inc., AARP Services, Inc., and the AARP Foundation. However, Mr. Hammond failed to recall the AARP Insurance Plan board, which processed $6.8 billion in insurance premiums in 2009 and claimed seven AARP, Inc. Directors as its entire board in 2010. When asked if the three boards identified by Mr. Hammond are located in the same office, Mr. Hammond responded, "They have three different offices. They meet at three different spots."

    However, AARP, Inc. and the AARP Foundation both list 601 E Street, NW, Washington, DC 20049 as its address. Do you stand by Mr. Hammond's claim that AARP, Inc. and the AARP Foundation have different offices?

Outstanding questions that AARP, Inc. either failed to fully answer at the hearing or has previously refused to answer.

13. You were asked twice, by two different members, whether AARP would commit to forgoing any Exchange insurance product-related revenue, whether by royalty commission, or otherwise, beginning in 2014. You failed to answer the question both times it was asked. We would like you to answer this very simple question:

    Will AARP commit to not endorsing or selling insurance in the government-run Exchanges? Will AARP decline any royalty, commission payments, licensing fees, or revenue from any insurance company that is related to an insurance product offered in the Exchange?

14. When asked why the AARP, Inc.'s cash and in-kind contributions have not kept pace with AARP's royalty revenues growth and how this comports with AARP's tax-exempt status, you simply responded that "All of our money does go to our mission."

    Please provide a detailed and specific accounting – by program and dollar amount - of how AARP's $1.4 billion in total operating revenue was spent in 2009 to further AARP's mission. As part of that, please indicate how AARP spent the more than $600 million of royalty revenues it collected in 2009, derived primarily from insurance companies, that were not provided to the AARP Foundation or AARP's Legal Counsel for the Elderly. In addition to specific programmatic spending, please provide an explanation of how the activity is related to AARP's mission. Please subtract any taxpayer-funded grant money from your calculations of how AARP spent its revenue in 2009.

15. When asked how many millions of dollars AARP receives from its Medigap insurance business, you responded that, "We will provide any of your asks that we can—that we have sole control over." As you have complete information about how much money AARP receives from its insurance business, please indicate how much money AARP has been or will be paid by UnitedHealth Group, in each year of its current contract, in direct royalty payments from the sale of AARP-branded Medigap insurance policies.

Again, thank you for participating in the Subcommittees' hearing. We look forward to reviewing your responses. Please provide this information to our offices no later than May 5, 2010. Thank you in advance for your cooperation and commitment to transparency.

Sincerely,

Wally Herger
Chairman
Subcommittee on Health

Charles Boustany, Jr., MD
Chairman
Subcommittee on Oversight

Dave Reichert
Member of Congress

Enclosure

Attachment 12

Rhode Island
2010 Expenses by Category

Standardized Plans

Member Contribution	$10,557,791
Average Lives	5,418

Expenses	% of Member Contribution	PMPM
Royalty	4.95%	$8.04
Premium Taxes	2.00%	$3.25
Risk and Profit	1.85%	$3.00
Operating Expenses	4.49%	$7.29
Sales Expenses	4.17%	$6.77
Commissions	0.71%	$1.15
Investment Income Credit	-0.58%	($0.94)
Total Expenses	17.59%	$28.56

Chairman BOUSTANY. You said earlier the interest goes back to the mission. That was kind of a broad statement. I am just following up on a quote you gave in questioning to Mr. Herger, and that the royalties have nothing to do with the premiums. Can you elaborate more on that?

Mr. RAND. Premiums are what the insurance companies charge the beneficiaries.

Chairman BOUSTANY. Right.

Mr. RAND. Separate issue. We have nothing to do with that.

Royalties come from an agreement when we go through a process that says who can meet the wants and needs of our membership and 50-plus populations. We understand clearly what the unmet needs are. We take those unmet needs, and during the process we invite, in this case, insurance companies in and say who can do the best job in changing the marketplace to meet the unmet needs of our seniors. Who can have the quality that our seniors expect?

Chairman BOUSTANY. Well, I understand that.

Mr. RAND. We then——

Chairman BOUSTANY. Okay, go ahead.

Mr. RAND. We then select. When we select, we then give them permission to use our brand, the AARP brand. For that permission to use our brand, we have royalties and payment for that.

Chairman BOUSTANY. Okay. Now, does AARP Services have any role whatsoever in setting the premium rates?

Mr. RAND. The answer is no.

Chairman BOUSTANY. Okay. Thank you. That is all I have.

Chairman HERGER. Thank you.

The ranking member of the Oversight Committee Mr. Lewis is recognized for 5 minutes.

Mr. LEWIS. Mr. Rand and Mr. Hammond, I want to thank you for being here. I want to thank you for your great service to the Nation and for all of your great and good work.

The Republican report states that AARP charitable contributions only increased by 11 percent from 2004 to 2008. Now, AARP is a social welfare organization. American Crossroads-GPS, is an American social welfare organization. The Tea Party Patriots is a social welfare organization. Both want to repeal health care reform. I am not aware of any charitable activity or contribution by either of these organizations.

Mr. Hammond, are you aware of any requirement of a social welfare organization engaged in charitable activities? Could you please describe for the committee a few of the charitable efforts of the AARP?

Mr. HAMMOND. Thank you for the opportunity, Mr. Lewis. That is one of the things I was trying to talk with Chairman Boustany about.

A (c)(4) social impact organization is simply that. We have established a charitable arm to (c)(3) to deal with vulnerable populations who are in need of assistance in the very essence of their lives to try and stay together.

The (c)(4) is working on a broader basis on our social mission. We are looking to help people in need, and certainly we do, but we help them in different ways. We helped 53,000 job seekers through our 2010 job fairs. We are helping with the drive to end hunger, which we are financing. Folks say, well, why don't you just throw that money at hunger? Why don't you just help feed people with that money?

Well, that would be fine, and it would feed a lot of people, but the focus isn't that. The focus is on defeating hunger in this country, and putting the spotlight on hunger, and making people understand just exactly what a big problem it is.

We have been raising money for relief in Haiti. We are raising money for relief in Japan. As Mr. Rand stated earlier, we have, through our advocacy efforts, saved utility customers about $3 billion in 2010 by opposing unjustified rate increases.

We have represented tens the of thousands of people at no fee in cases where age discrimination is involved.

We have supported efforts through our advocacy, which is another perfectly legal part of the (c)(4), to do the kinds of things that our people say need having done.

We are looking at 100 million Americans who are age 50-plus, about 37 million, plus or minus, are members, but we are not doing it just for our members, we are doing it for everyone.

Mr. LEWIS. Thank you, Mr. Hammond.

Mr. Rand, do you want to respond?

Mr. RAND. Well, if I were to add some clarity, this is what I was trying to explain when we were asking the questions about where do our dollars go in terms of a social good organization.

Roughly 25 percent of our revenue—25 percent, excuse me, of our expenditures go to community benefits such as tax aid and driver safety, other programs of that ilk, 25 percent of our expenditures; member services, 240 million, about 24 percent; advocacy and research, 10 percent; communications operations, 8 percent, and that is really focused on education with our great magazines. Those are some examples on a higher percentage basis well beyond the two programs that there seems to be a chart that says they went down, but this tells you in a broad sense that the vast, vast majority, all of our money, really goes to our social welfare mission.

Mr. LEWIS. Thank you.

Mr. Rand and Mr. Hammond, I find it sort of strange and out of the ordinary that if our Republican colleagues of mine are attacking AARP today as retribution for your organization's support for health reform, they were more than happy, as Mr. Stark suggested, to stand with you when they created the Medicare drug benefit.

I want to ask unanimous consent to insert into the record a list of the quotes from my Republican colleagues when MMA was passed. Mr. Rand, I don't believe that you were at AARP at that time, but, Mr. Hammond——

Chairman HERGER. Without objection, that would do.

Chairman HERGER. The gentleman's time has expired.

Mr. LEWIS. Well, Mr. Chairman, I think you took much more than 5 minutes. I know you have leeway. You were asking questions when I went over to vote, and when I came back, you were still asking questions. You took at least 15 minutes.

Chairman HERGER. Well, the gentleman's time has expired.

The gentleman from Texas Mr. Johnson is recognized for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman.

Thank you all for being here.

The health care bill cuts Medicare Advantage by $206 billion, and those cuts are going to result in millions of seniors no longer selecting Medicare Advantage coverage either because those plans will no longer be available to some seniors, or because they will become too expensive and offer fewer benefits.

I want to know if you were aware of these cuts when AARP endorsed that legislation?

Mr. HAMMOND. Mr. Johnson, if I might answer?

Mr. JOHNSON. Sure.

Mr. HAMMOND. Yes, we were certainly aware of those cuts. That has been AARP's position since Medicare Advantage was first instituted. We do not believe that excess payments should go to programs that are paid for by the other 75 percent of the taxpayers who are involved in regular Medicare. That has been our position and our public policy for at least 10 years.

Mr. JOHNSON. So you don't believe that people ought to be able to choose their own health care programs?

Mr. HAMMOND. We absolutely believe they ought to be able to choose their own health care programs. We don't believe they ought to be subsidized into programs.

Mr. JOHNSON. Okay. The for-profit AARP's insurance plan collects Medigap premiums, invests seniors' premium money, earns interest on it, and then keeps almost 5 percent of the premium amount and the interest earned off the float. The rest of the premium is then sent to UnitedHealth Group.

AARP, Inc., the 501(c)(4), receives royalty payments directly from UnitedHealth Group for AARP's Medicare Advantage and Medicare prescription drug plans.

Why does AARP handle insurance profits differently depending on whether its Medicare Advantage or Medigap? Do you want to answer that, too?

Mr. HAMMOND. I will give it a shot, and then Mr. Rand can fill in with anything he has to say.

Number one, Medicare Advantage is a program that is sponsored under Medicare, not through private insurance, and it follows all the government regulations. Therefore, the way that that royalty payment is done is under Federal regulation.

Mr. JOHNSON. Okay. So, you didn't really tell me about Medigap, though.

Mr. HAMMOND. And Medigap, I think—first of all, I would like to make a slight correction in what you indicated.

All of the premiums for those issues go into the insurance trust, the grantor trust that Chairman Boustany was talking about. That is a legal entity that was set up in 1958 to receive those and to hold the group policy and to receive the premiums, hold the premiums, invest that. And, yes, we do receive interest income for that float, which is perfectly legal. We do take royalty payments from that money that comes in, and then, as requested by the insurance companies to cover their products, we return the balance of that money to them.

Mr. JOHNSON. Does AARP receive more in royalty payments for AARP-branded Medigap than Medicare Advantage plans?

Mr. HAMMOND. I am sorry, sir, would you repeat that?

Mr. JOHNSON. Do you get more from Medigap than you do Medicare Advantage plans that you all have started?

Mr. HAMMOND. I am assuming you are talking about royalties, sir?

Mr. JOHNSON. Yes.

Mr. HAMMOND. Yes, we do.

Mr. JOHNSON. You do.

Mr. HAMMOND. Yes.

Mr. JOHNSON. And according to Medicare's chief actuary and United States—UnitedHealth Care executives, the Medicare Advantage cuts will increase enrollment in Medigap plans as seniors look to have supplemental coverage. And the more people that enroll in AARP Medigap, the more money AARP receives, according to what I am given. As a result, AARP could easily see a windfall in excess of $1 billion as a result of the health care law.

How do you explain that to the seniors you are supposedly advocating for? And, you know, it looks like you are raking in the cash while they are losing benefits and paying more for coverage.

Mr. HAMMOND. May I make one comment, sir, before Mr. Rand answers that question?

Mr. JOHNSON. Sure.

Mr. HAMMOND. One of the priorities that we set was that no traditional benefits under Medicare would be lost. In fact, Medicare would be strengthened. So I just want to make that clear in terms of benefit cuts.

Chairman HERGER. The gentleman's time has expired.

Mr. JOHNSON. My time has expired, thank you, Mr. Chairman.

Chairman HERGER. The gentleman from Washington Mr. McDermott, Dr. McDermott, is recognized for 5 minutes.

Mr. MCDERMOTT. I think you gentlemen understand what you are being made part of today. It is a reenactment of a play by Arthur Miller called "The Crucible." It was a play about witches in Salem, and the evidence had to be found that these women were all controlled by the devil.

Your sin, as you may know, is that you backed the Affordable Care Act. Now, I am sure that the chairman has a long list of other groups that are going to be brought in here, and I am sure that the pharmaceutical industry will be brought in here because they got a deal that we can't negotiate pharmaceutical prices or prohibited—Mrs. Sebelius is prohibited, Secretary Sebelius is prohibited from negotiating better prices for seniors.

The pharmaceutical industry, I think they must have caught, you know, a pretty good deal on that. That was put in, you remember, back when they put in the drug benefit a few years ago, and they said that they couldn't negotiate better prices for seniors. You could do it for veterans, save quite a bit for them, maybe 40, 50, 60 percent, but you couldn't do it for seniors. So the pharmaceutical industry caught quite a benefit in there, and they supported it.

I am sure we are going to have them in here to go over their finances, and how their money is spent, and where they get it, and how they use it for lobbying up here, and how they get tax deductions.

And then we will probably have the medical device people up here. I keep getting those things The SCOOTER Store saying, are you having any trouble moving around? Well, just come on in, and we will get you a scooter, and it will be paid for by Medicare. And, by goodness, and they got a little old deal in this bill that went out of here, the Affordable Care Act, and down the list we are going to go.

Now, the question really is are we going to go after every organization that is a 501(c)(3) and a 501(c)(4)? And if we are going to start that, well, then we are going to have churches in here. There ought to be some churches we look carefully at. I mean, this is an oversight committee, and we really ought to be going after them.

And the question that comes to my mind in listening to all this is how did you make the decision to back the Affordable Care Act?

I don't think you just got up one morning and said, let us back this thing. Tell us about the process that you went through, because I want to understand why you committed this sin. I think if you would confess your sin, maybe we could end this hearing and you could go home. But if you won't confess as to how you came to this terrible decision, I would like to hear you talk about it.

Mr. RAND. Thank you very much for the opportunity to talk about it.

First of all, as many of you all know, this is a vital part of our mission to have affordable, accessible health care for all Americans. It is health security. This has been our mission for over 50 years, over 50 years.

When we talked to our members, they asked us what it was they needed the most. We took down a list of what they said they needed. One was no preexisting condition, because they couldn't get insurance, and yet they were still getting sick, and it was their leading cause of bankruptcy and loss of homes. And so we advocated for no preexisting conditions. And, in fact, there were many portions of the insurance industry who were pushing against it.

Age rating. They say, we are getting older, and we are paying 10, sometimes more, depending on the State, than a young person as we have less out-of-pocket to pay. We don't want age discrimination to continue. And so we advocated for taking the 10X that they were paying, and the bill has the maximum of 3X.

Then the baby boomers said, we don't have enough money to send our kids to college and at the same time try to figure out how to pay for their separate insurance, so we would love to be able to have them on our insurance policy so we can do both so we can help give them the American dream.

Closing the donut hole.

Chairman HERGER. The gentleman's time has time. If you could close up quickly, please.

Mr. RAND. The donut hole, because it was 30 percent of the out-of-pocket cost for seniors. We closed the donut hole completely.

Home and community care options for those people who don't want to go to nursing homes, and preferred——

Chairman HERGER. The gentleman's time has expired.

Mr. RAND. Thank you, sir.

Chairman HERGER. I recognize the gentleman from Washington Mr. Reichert for 5 minutes.

Mr. REICHERT. Thank you, Mr. Chairman.

Again, thank you, Mr. Hammond, Mr. Rand, for being here this morning.

First of all, all of those conditions that you have just listed, I think most members on this panel, Democrats and Republicans, would agree with. I do. So I think we are on the same page with a lot of these things.

And I do take issue with some of the comments made as far as this being a political witch hunt. We can demonize this, but, you know, really what it boiled down to is a Representative in Florida who represents a lot of seniors, who had some questions, Ginnie Brown-Waite; the chairman of the health committee who had some questions, and it is his responsibility to have those questions answered. And then as far as my part in this, I am just an old cop.

And so I hope you can understand—do you really know and understand why you are here today? I mean, we are just wanting to find the answers. And so I just want to go through a couple of things.

First of all, look, we exchanged some letters, and the responses we got back were minimal in response to the questions that we asked. And the fact this transparency issue was referred to earlier by the chairman where one of the comments made is no public or confidential propriety or information—some information is nonpublic or confidential and proprietary to only AARP and its member benefit providers.

There is a transparency issue. After the letters were sent, and the responses were really not adequate, we then had a face-to-face meeting with your CFO, then-CFO Tom Nelson. Tom Nelson and others could not answer the questions that I posed to them. They couldn't answer the question of what happens to the one out of four seniors who will lose Medicare Advantage. What happens to those?

You have actuarial scientists working in your organization, I assume; is that correct? Just yes or no, because my time is limited.

Mr. RAND. Yes.

Mr. REICHERT. I would assume.

Mr. RAND. Excuse me, I don't believe we have actuarial, because we are not in the insurance business. So I don't——

Mr. REICHERT. You must have actuaries who can map out your future for you, right? I mean, you are a large organization. You have to have actuaries. I would think that your actuaries——

Mr. RAND. If we do, I will give you the answer.

Mr. REICHERT. Yes. Thank you.

The actuaries have to look out forward and say, you know, we can predict what is going to happen to these one out of every four seniors, how much insurance they may lose, what it is going to cost, what its benefits are for AARP or not, what United Way—you know, what the impact and effect will be.

But we finally had to end up calling in help from the IRS. So this report, as people referred to it as a Republican report, is a report that was formed with the help of an IRS personnel who assisted our staff in going through this information. This isn't made?up information; this is accurate, statistical information gathered through a very serious analysis of the monies that you are making in revenue versus the monies that you are distributing in your 501(c)(3).

Now, look, one of the answers that Tom Nelson gave me is that, you know, this whole thing is to protect the greater good, which kind of goes to one of your mission statements, enhance the public good. But what about protecting the American seniors? You know, when you talk about Medicare Advantage, and we don't want others shouldering the burden of paying these additional premiums to allow others to have insurance, the whole health care bill is built on that; am I not correct? Yes or no, please. The whole health care bill is built on others for helping to provide for others; is that not true? So why would you be against Medicare——

Mr. RAND. The answer is yes. There are many elements that are there.

Mr. REICHERT. Thank you.

So why would you be against another program that really is helping seniors and others are shouldering the burden? That doesn't make any sense to me.

The fact that you support these cuts, it is amazing to me.

Mr. RAND. Can I——

Mr. REICHERT. Protecting AARP's dues members, aren't you concerned about that? AARP, you are not suggesting, I hope, that the half trillion dollars in Medicare cuts that will jeopardize seniors' access to health care is good for seniors, are you?

Mr. RAND. No. And I am at your ready when you would like for me to respond.

Mr. REICHERT. You keep records, I mean, meticulous records, right?

I would just like to say, sir, if you could provide me with the list of times that you visited the White House, I would be interested in that.

[The information follows: The Honorable Mr. Herger, The Honorable Mr. Boustany, and The Honorable Mr. Reichert-Letter to AARP]

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 21, 2011

A. Barry Rand
Chief Executive Officer
AARP, Inc.
601 E Street, NW
Washington, DC 20049

Dear Mr. Rand,

Thank you for testifying at the April 1, 2011 joint hearing of the Committee on Ways and Means Subcommittees on Health and Oversight. Based upon comments you or Lee Hammond, President of AARP, Inc., made at the hearing, there are a number of documents and answers that AARP agreed to provide the Subcommittees. Likewise, there are unresolved matters or areas that require further clarification. To that end, this letter is intended to follow up on those matters.

In order to clearly delineate the source of the inquiries, questions have been divided into the following categories:

1. Information you or Lee Hammond agreed to provide the Subcommittees during the hearing;

2. Questions and clarifications related to possibly inaccurate or incomplete statements made during the hearing, including inaccuracies brought to Committee staff's attention by AARP's outside counsel; and

3. Outstanding questions you either failed to answer at the hearing or previously refused to address, but that we hope you will now provide given your organization's recently stated commitment to transparency.

Furthermore, while you were the official witness on behalf of AARP, Inc. and its affiliates, per your outside counsel's request, the Subcommittees allowed Mr. Hammond to accompany you at the witness table for the purpose of assisting you in answering questions to which you might not have the answer readily available. Accordingly, some of the questions below are based on statements made during the hearing by Mr. Hammond. Given the time you have had to review these matters, we expect complete answers to all questions.

Information Mr. Rand or Mr. Hammond agreed to provide the Subcommittees.

1. Royalty amounts that AARP receives, on an annual basis, for the Medicare Advantage (MA) and Medicare Part D prescription drug plans under AARP's current contract with United, which runs through 2014. Please list the royalty amount separately for each insurance product type.

2. The amount of money AARP earned on the interest from holding insurance premiums for AARP-branded insurance products and the amount of taxes paid, if any, on the interest earned, in each of the last ten years. Also provide the length of time the premium money is held by AARP, in accordance with the contracts, for each AARP-branded insurance product.

3. Clarification of whether AARP, Inc. or any of its affiliated entities employ or contract with actuaries. If there are actuaries employed by or under contract, please detail how many, in what organization they are employed, and their primary job responsibilities.

4. Information on every meeting with individuals representing the White House and the Obama Administration that included an AARP representative, whether employed by AARP or contracting with AARP, the dates of those meetings, and the names of White House and Administration representatives at such meetings from 2009 through 2011 where health care was discussed.

5. A detailed description and funding amount of the member services provided to AARP members today that were not provided in 2002.

Questions and clarifications related to certain statements (including omissions) made during the hearing, including inaccuracies brought to Committee staff's attention by AARP, Inc.'s outside counsel.

6. When asked, "What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?" you responded that, "I can't answer the future. We have not talked about that."

   Given that AARP's Medigap contract with UnitedHealth Group runs through 2017, the royalty payment (defined as percentage of Medigap premiums retained by AARP) that AARP receives in future years covered under the contract should be readily available. Please provide us with information detailing the percentage of the Medigap premium that AARP will receive in 2011 through 2017.

7. When you were asked if AARP makes money off of its NASCAR sponsorship you replied, "We don't make any money on this."

   However, according to NASCAR's announcement of the AARP deal: "Sales will be managed by Kyle Lewis, AARP vice president of business development, and Andrew Campagnone, senior vice president of motorsports for Wunderman, who helped put together the deal...[AARP] expects to have no problem recouping its investment in the car or collecting donations for its effort to end hunger. It plans to set a benchmark early next year for how much of every dollar it raises is directed to fighting hunger."

   Given this statement, please clarify whether or not AARP, Inc. or any of its affiliates, will receive revenue from selling advertisement space on the car. If so, how much has AARP received thus far? How much will AARP receive over the next three years of the sponsorship deal, in accordance with advertising contracts with other entities that have already been signed? Additionally, how much of every dollar of advertising revenue will be directed to this hunger initiative that are not related to overhead costs?

8. You claimed that AARP does not collect Medigap insurance premiums from seniors and that AARP does not receive royalty payments for the sale of AARP-branded Medigap insurance plans. Your claim is inconsistent with AARP's most recent Notes to Consolidated Financial Statements which state that the AARP Insurance plan, "a grantor trust, holds group policies, and maintains depository accounts to initially **collect insurance premiums** received from participating members. In accordance with the agreement referenced above [contracts with UnitedHealth Group, Metropolitan Life Insurance Company, Genworth Life Insurance Company, and Aetna Life Insurance Company], **collections are remitted to third party insurance carriers within contractually specified periods of time, net of the contractual royalty payments that are due to AARP, Inc.,** which are reported as royalties in the consolidated statement of activities." (*emphasis added*)

   Additionally, please see the enclosure showing AARP and UnitedHealth Group's Medigap insurance filing with the Rhode Island Department of Business Regulation's Division of Insurance Regulation in 2010. This filing shows that 4.95 percent of the Medigap premiums are classified in the filing as "royalties." These royalties are presumably being paid to AARP.

   Given these facts, we would like to provide you with the opportunity to correct what appears to be a clear misstatement. Which entity collects premiums directly from Medicare beneficiaries for AARP-branded Medigap insurance policies? Further, what percentage of this premium does AARP retain before sending the remainder to UnitedHealth Group in 2011? What percentage of premium payments will AARP retain in each of the remaining years on AARP's current Medigap contract with United?

9. With regard to the interest AARP earns by keeping Medicare beneficiaries' insurance premiums, you stated that the premium revenue is held in a "simple interest-bearing account." AARP's outside counsel clarified after the hearing that the Medicare beneficiaries' premium money is also invested by AARP in other ways, including securities.

   Please provide a detailed account of what your outside counsel meant by "other investments" when he wrote "the Trust assets are held not only in an interest bearing account, but they are also invested in securities and other investments." Also, provide the total premium dollar amount that the AARP Insurance Plan and AARP, Inc. have invested since 2002; what percentage of that annual total was invested in securities and what remained in an interest bearing account; and specify the industry sectors in which these "other investments" are made.

10. When asked if AARP Services has any role whatsoever in setting insurance premiums or rates, you stated, "The answer is no."

    However, AARP's outside counsel informed staff after the hearing that, in fact, AARP Services, Inc. (ASI) does "review" premium rates and may negotiate with the insurance carriers so that such rates are deemed "reasonable" by AARP standards. Once ASI and AARP's insurance partners come to an agreement, AARP's Insurance Plan must approve the premium rate. If approved, the rate is forwarded to the state insurance commissioners.

    We would like to give you the opportunity to answer the question again. What role does AARP Services have in setting the premiums for AARP-branded insurance products? Is AARP's Insurance Plan's Board of Directors responsible for approving insurance premiums for AARP-branded insurance products? If so, which products?

11. When questioned about which AARP entity oversees its insurance contracts, Mr. Hammond responded that "they are not overseen by the [AARP, Inc.] board, they are overseen by [AARP Services, Inc.], which is our for-profit. They manage and oversee the contracts." It is important to note that in 2010, two of AARP, Inc.'s Directors also served on the board of AARP Services.

    Based upon the information received from AARP's outside counsel described above, including the fact that the AARP Insurance Plan Board must approve the contract and premiums and that this group was entirely comprised of AARP, Inc. directors in 2010, on what is the basis for your assertion that the AARP, Inc. board does not oversee the contract with UnitedHealth Group?

12. Mr. Hammond claimed there are "basically three different boards involved in the AARP organization." Mr. Hammond mentioned the boards of AARP, Inc., AARP Services, Inc., and the AARP Foundation. However, Mr. Hammond failed to recall the AARP Insurance Plan board, which processed \$6.8 billion in insurance premiums in 2009 and claimed seven AARP, Inc. Directors as its entire board in 2010. When asked if the three boards identified by Mr. Hammond are located in the same office, Mr. Hammond responded, "They have three different offices. They meet at three different spots."

    However, AARP, Inc. and the AARP Foundation both list 601 E Street, NW, Washington, DC 20049 as its address. Do you stand by Mr. Hammond's claim that AARP, Inc. and the AARP Foundation have different offices?

Outstanding questions that AARP, Inc. either failed to fully answer at the hearing or has previously refused to answer.

13. You were asked twice, by two different members, whether AARP would commit to forgoing any Exchange insurance product-related revenue, whether by royalty commission, or otherwise, beginning in 2014. You failed to answer the question both times it was asked. We would like you to answer this very simple question:

    Will AARP commit to not endorsing or selling insurance in the government-run Exchanges? Will AARP decline any royalty, commission payments, licensing fees, or revenue from any insurance company that is related to an insurance product offered in the Exchange?

14. When asked why the AARP, Inc.'s cash and in-kind contributions have not kept pace with AARP's royalty revenues growth and how this comports with AARP's tax-exempt status, you simply responded that "All of our money does go to our mission."

    Please provide a detailed and specific accounting – by program and dollar amount - of how AARP's \$1.4 billion in total operating revenue was spent in 2009 to further AARP's mission. As part of that, please indicate how AARP spent the more than \$600 million of royalty revenues it collected in 2009, derived primarily from insurance companies, that were not provided to the AARP Foundation or AARP's Legal Counsel for the Elderly. In addition to specific programmatic spending, please provide an explanation of how the activity is related to AARP's mission. Please subtract any taxpayer-funded grant money from your calculations of how AARP spent its revenue in 2009.

15. When asked how many millions of dollars AARP receives from its Medigap insurance business, you responded that, "We will provide any of your asks that we can—that we have sole control over." As you have complete information about how much money AARP receives from its insurance business, please indicate how much money AARP has been or will be paid by UnitedHealth Group, in each year of its current contract, in direct royalty payments from the sale of AARP-branded Medigap insurance policies.

Again, thank you for participating in the Subcommittees' hearing. We look forward to reviewing your responses. Please provide this information to our offices no later than May 5, 2010. Thank you in advance for your cooperation and commitment to transparency.

Sincerely,

Wally Herger
Chairman
Subcommittee on Health

Charles Boustany, Jr., MD
Chairman
Subcommittee on Oversight

Dave Reichert
Member of Congress

Enclosure

Attachment 12

Rhode Island
2010 Expenses by Category

Standardized Plans

Member Contribution	$10,557,791
Average Lives	5,418

Expenses	% of Member Contribution	PMPM
Royalty	4.95%	$8.04
Premium Taxes	2.00%	$3.25
Risk and Profit	1.85%	$3.00
Operating Expenses	4.49%	$7.29
Sales Expenses	4.17%	$6.77
Commissions	0.71%	$1.15
Investment Income Credit	-0.58%	($0.94)
Total Expenses	17.59%	$28.56

Mr. REICHERT. Thank you, Mr. Chairman.

Chairman HERGER. The gentleman's time has expired.

The gentleman from California Mr. Thompson is recognized for 5 minutes.

Mr. THOMPSON. Thank you, Mr. Chairman.

I just want to state for the record that I believe it is totally appropriate that we look at tax status. I think it is a very, very important thing to do. And this committee certainly has the jurisdiction and responsibility to review this issue. I think our taking it on is very appropriate.

Also, however, I want to state that that review, I believe, must be fair and impartial, and it should not be done to carry out some sort of political vendetta.

After AARP supported the Medicare Part D measure, and that was support that, I might add, was touted by then-President Bush, Speaker Hastert, Chairman Thomas of this committee, Chairman Tauzin of the other committee with jurisdiction, AARP's financial interest, I think, was probably more clear then than it is after their support of the health care measure. And there was no question as to whether or not their tax status should be looked at. There was no oversight of AARP at that particular time. And I just find it curious that we are looking at it at this particular time.

And I think we have to ask the question is this political payback, or will this committee be reviewing the tax status of other nonprofit organizations that get involved in the political process, such as 60 Plus, the Republican-leaning group that claims that it is the alternative, the conservative alternative, to the AARP?

I am a little mystified as to why they are not here; or American Crossroads or the Tea Party Patriots, for that matter; or churches that may take political positions; or even corporations, multibillion-dollar corporations who show multibillion dollars of profits, and then we read in the papers they don't pay one single dime of corporate taxes.

I think it is a very slippery slope where we are going down today, and I just want to make sure that everybody recognizes that. And I would like to see this committee get back on its regular order, as a course of business.

I wanted to give Mr. Rand an opportunity to finish his comments. Mr. McDermott had asked a question, and I don't think he had a chance to finish his. Will he be coming back?

Mr. HAMMOND. He will be coming back. If you would like to phrase the question, if it is appropriate with the chairman, that I will be glad to try and give you an answer.

Mr. THOMPSON. Why don't you go ahead and finish up where he had left off.

Mr. McDermott, do you want to rephrase?

Mr. MCDERMOTT. Yes. My question really was the process by which you arrived at the decision to back the Affordable Care Act. And he was describing the things that the members had talked about and wanted, but never got to how that decision was made.

Mr. HAMMOND. That decision was made by the board after what seemed like torturous hours of discussion. And I think as Mr. Rand stated, the decision was made based on the principles that we wanted to see included in any health care reform act. These are the principles, the things that our members told us they wanted to see in the act, and, as Mr. Reichert indicated, they are things that almost all Members of the Committee agreed with.

We would love to have seen that done on a bipartisan basis, because that is the way we try and operate, but we felt that we had to support that act because of those principles and the benefits that it would give to seniors.

Mr. THOMPSON. Mr. Lewis, you were kind of abruptly cut off during your questioning. Would you like to take the remainder of my time to finish asking your question?

Mr. LEWIS. I appreciate it. But I think you made the point that I had planned to make.

Mr. THOMPSON. Thank you. I yield back.

Chairman HERGER. The gentleman yields back.

I request unanimous consent that the investigative report "Behind the Veil: The AARP America Doesn't Know" be entered into the record. Without objection——

Mr. BECERRA. Reserving the right to object. Reserving the right to object.

Chairman HERGER. The right to object has been recognized.

Mr. RANGEL. Reserving the right to object—I haven't objected because there is just some question as to whether this is an official document, who prepared it, is it a political document, is it a Ways and Means document, is it a congressional document?

I see your name on it and, of course, my colleague Mr. Reichert, but I have been waiting to see where this came from. And so if you put it in the record, how would you identify it as to what we would look forward to in reading it? If you could help me, I am certainly anxious to withdraw any objection at all.

Who paid for it? Where did it come from? Is it a campaign document? Did it come from the Republican Congressional Campaign Committee, or is it a Ways and Means document without a seal? God knows, I know what seals mean.

Chairman HERGER. The gentleman, I might mention that the whole purpose, the object of this hearing is on this report. The committees, on a regular basis, submit and are accepted by unanimous consent documents that are not involved with this hearing.

If the gentleman doesn't remove his objection, we will call for a vote.

Mr. RANGEL. No—I am going to remove—there is one question: Who paid for this report? Where did it come from? Why is there no identification? Is it a Federal report? That is all I am asking. I don't want a roll-call vote, I am ready to roll over and accept it.

But I just want to know why there only two Members' names on it, and why is the source of this information not put on the cover, so when I do read it fully, I would know who paid to have this done. If the government paid for it, I would think——

Chairman HERGER. Again, the gentleman—it has on the report who has asked for it, so my name and Congressman Reichert's name are on it. So it is indicated here.

Again, if the gentleman—would the gentleman like a vote?

Mr. RANGEL. I want to withdraw my objection. All I am asking for is who paid for the report and where did it come from. I don't want to make a big issue out of this. Did you and your colleague pay for this?

Chairman HERGER. I appreciate. I think if the gentleman looks at the report, I think it is obvious where——

Mr. RANGEL. It is not obvious, and you can direct my attention to what I am missing.

Chairman BOUSTANY. Would the chairman yield to me for a minute?

Chairman HERGER. I yield to the gentleman.

Chairman BOUSTANY. It is my recollection that Mr. Stark issued a similar report in the context——

Mr. RANGEL. He may have been wrong in doing that. You know Stark. You know him, and I know him, and I would never use Stark——

Chairman BOUSTANY. But since you are admitting that——

Mr. RANGEL. I wouldn't want to use Stark as to what this committee should be doing.

Chairman BOUSTANY. But to my friend from New York, the report was prepared by two Members of the Committee.

Mr. RANGEL. You two did it. That is all I want to know. You did it, you paid for it, and so that answers my question. I remove any objection.

Mr. BECERRA. Reserving the right to object.

Chairman HERGER. The right to object has been reserved.

Mr. BECERRA. Mr. Chairman, I am not interested in rolling over. I would like to know, are we saying this was a report that was produced by just two particular members of this committee? And if it was produced by just two particular members, I am interested in understanding, is this a committee-generated report, and, if so, at what point was it shared with the other Members of the Committee?

Chairman HERGER. Again, it is on the report, as was mentioned to the gentleman from New York. There were actually three Members; former Congresswoman Ginnie Brown-Waite was also involved. Again, I think it is very clear.

Mr. BECERRA. So were committee resources used to generate this report, or was this done through Members' own member account monies or through some private account monies?

Chairman HERGER. This has been done through the same account, through committees, through our Member's account, as would be done if you had asked, the gentleman from California had asked for a report or anyone else.

Mr. BECERRA. Of the committee or of my staff? I am trying to determine whether this is a committee——

Chairman HERGER. Would the gentleman like a vote, or would the gentleman remove his——

Mr. BECERRA. I am reserving the right to object. I am hoping to get responses to the question, because the report doesn't identify, other than by saying investigative report prepared by Reps Wally Herger and Dave Reichert.

Does that mean that this was prepared, Mr. Chairman, by you as a Member and Mr. Reichert as a Member, or as you as chairman using the resources of the Ways and Means Committee?

Chairman HERGER. Okay. We need to move on. Is the gentleman objecting or not objecting? I think we have discussed it.

Mr. BECERRA. I do object.

Chairman HERGER. Would the gentleman like a vote?

Mr. PASCRELL. Reserve the right to object. Am I recognized?

Chairman HERGER. The gentleman is recognized.

Mr. PASCRELL. Thank you. Thank you.

There is no date on this report either. And if we were supposed to consume it so that we could respond and ask questions today, we certainly were not given much time.

Are you telling us, Mr. Chairman, and a very simple question, this is like any other report that this committee asks for, and the people who worked on it were paid their usual salaries, nothing more, nothing less? There was no external force used to put this together?

Chairman HERGER. The gentleman—we need to move on with this hearing.

Mr. PASCRELL. No. We don't need to move on unless we get an answer.

Chairman HERGER. Then why don't we have a vote.

Mr. PASCRELL. We are not moving on until we get an answer. It is a fair question. What the heck is so complicated about——

Chairman HERGER. Okay. I remove my unanimous consent.

Mr. PASCRELL. Good.

Chairman HERGER. I remove my unanimous consent.

Mr. KIND. Mr. Chairman. Reserving the right to object, Mr. Chairman.

Chairman HERGER. I have removed my unanimous consent request, and we are going to move on.

Mr. KIND. Mr. Chairman, could I just ask a simple question? We don't want to make a big deal out of this. Who prepared the report?

Chairman HERGER. The gentleman is not recognized.

Mr. KIND. If your staff prepared the report, just say so, so we have an understanding. But we are not clear who prepared the report, and that is all we are asking today.

Chairman HERGER. Okay. The gentleman from Illinois Mr. Roskam is recognized for 5 minutes.

Mr. ROSKAM. Well, Mr. Rand, back to you in the booth. A couple of questions. Earlier in your testimony, in your written testimony, on the first page down at the bottom, you said an interesting thing. Let me just read two sentences of your testimony, and let me just make a couple of inquiries in light of some of your responses to Mr. McDermott and Mr. Lewis. You said, we have long maintained that we would forego revenue in exchange for lifetime health and financial security for all older Americans. As an example of this, it is very unlikely under the Affordable Care Act the AARP-branded insurance plans for 50- to 64-year-olds will become obsolete and we will no longer receive revenue from those plans.

Is it your intention to forego future revenues or royalties or sources of income as the Affordable Care Act rolls in, and are you committing today that you are not going to be earning any of those revenues or royalties or sources of incomes from areas that are in the exchange?

Mr. RAND. We really haven't had a conversation. We really haven't had a conversation about the exchange and a strategy about the exchange.

Mr. ROSKAM. But that is what you are implying in these two sentences, aren't you?

Mr. RAND. No, I am not.

Mr. ROSKAM. Okay. But when you say that we would forego revenues if this happened, and as an example of that, we are foregoing revenues, that is a reasonable implication of those two sentences together, isn't it?

Mr. RAND. If it is reasonable for you, I would not say no. It is not the intent. You are putting two sentences together, and perhaps it was my lack of clarity.

Mr. ROSKAM. No, you put two sentences together.

Mr. RAND. That is right.

Mr. ROSKAM. And I have read them together in context; isn't that right?

Mr. RAND. Would you like me to clarify them for you?

Mr. ROSKAM. Yes, but let me put it in this context.

Mr. RAND. Yes, sir.

Mr. ROSKAM. You gave earlier a description of some of the elements of the Affordable Care Act.

Mr. RAND. Yes, sir.

Mr. ROSKAM. And I understand those. I made a note, no pre-existing conditions. You referenced the age rating changing from 10X to 3X, the baby boomers keeping children on their coverage, closing the donut hole, home community care options, and there were other things that you got cut off based on time that were attractive to you.

Mr. RAND. Yes.

Mr. ROSKAM. What are the weaknesses of the Affordable Care Act that compel you to keep an option open that would suggest if the Affordable Care Act isn't successful, that you may have to continue in the revenue royalty or income element of this in order to preserve your mission? What are the weaknesses of the Affordable Care Act that compel you to keep the option open?

Mr. RAND. Let me explain the intent of my statement. We have long been accused by some elements of being in this for money, for revenue.

Mr. ROSKAM. Hold that thought. I want to come back to it. Let me just highlight some of the folks that have accused you of that, because it is interesting. Our panel members really don't disappoint, do we?

The gentleman from California Mr. Stark said that you - "AARP members know that they are being sold out by an organization", i.e., you, "from past conduct, not your action in the Affordable Care Act."

The gentleman from New York Mr. Rangel said that "AARP has forgotten where they come from, because once you get into the business of making money with the devil, you forget your mission."

And the former Speaker Ms. Pelosi said—she complained that "you were in the pocket of Republicans at that time and suggested that you had a financial conflict of interest."

So your point is you have received a lot of criticism from a lot of circles. Now, go ahead.

Mr. RAND. That was not my point. That was your point.

The issue at stake here is that our mission started in the 1950s. I was 14 years old when the mission was stated, and that mission is that every American should have access to affordable health care and, therefore, health care security for life.

The question becomes, one of many, one is affordable. Right now we are having conversations about Medicare as if Medicare is the problem. Medicare is a recipient of the expenses of many industries.

Mr. ROSKAM. Look, I understand that. So the question is——

Mr. RAND. Affordability, sir, I think is the answer.

Mr. ROSKAM. And the Affordable Care Act doesn't satisfy you that it is going to maintain affordability, and, therefore, you need to keep the option open to sell and be involved in these products in the future. Is that really it?

Mr. HAMMOND. May I help with that?

Chairman HERGER. The gentleman's time has expired.

The gentleman from New Jersey Mr. Pascrell is recognized for 5 minutes.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Rand, you are a tax-exempt, private corporation.

Mr. RAND. Private association, yes, sir.

Mr. PASCRELL. Mr. Chairman, I have a couple of questions for you, Mr. Chairman.

I would like to know whether or not we think or you think that there are specific laws that have been broken here with regard to this tax-exempt organization? Is that one of the reasons or the reason why we are having this hearing?

Chairman HERGER. That is an improper parliamentary inquiry.

Mr. PASCRELL. Oh, it is.

My second question to you is this: What laws do you think have been broken, since we look at policy? We are not looking at corporate policy here, we are looking at national policy. That is our responsibility.

Chairman HERGER. I thank the gentleman. Again, that was outlined in the report that we have. That is why we are requesting the IRS to look into this and let them decide whether or not they properly should be paying taxes on the large amounts of money that they seem to be benefiting from, legislation that was passed.

Chairman BOUSTANY. Mr. Chairman, if you would indulge me for a moment.

Mr. PASCRELL. I will.

Chairman BOUSTANY. As chairman of the Oversight Committee, I think there are legitimate questions that call into question whether there is a violation of for-profit or nonprofit status, and I think there are legitimate questions about what is taxable income versus nontaxable income.

Mr. PASCRELL. May I have my time back, please?

Chairman BOUSTANY. Yes.

Mr. PASCRELL. May I have my time back?

Chairman BOUSTANY. Yes.

Mr. PASCRELL. Thank you.

Look, we are here to make national policy. We are certainly not here—none of us are saying this, I hope—to make AARP policy.

If the majority actually looked at the broader question here that we are supposedly discussing today on taxes, and section 501(c)(4), as a very specific part of the code, as you know, I think they would find it interesting that the sixth largest social welfare organization that has a 501(c)(4) classification is a tax-exempt racetrack and casino which operates in Iowa, and it pulls in $2.2 billion a year.

Can you blame us for asking questions about why now? It is hard for me. It is really hard for me, and I am sure you will help me understand why a racetrack and a casino is more deserving of this classification than AARP—because that is what you are getting at. You are questioning the classification of AARP. You didn't do it 8 years ago, but you do it now.

This classification of the AARP, it is very clear here, the majority believes the AARP is worth investigating more so than this racetrack. I find that hard to accept.

I know for a fact that the AARP does great work. I have disagreed with some of your philosophies. So what?

Mr. Rand, can you share with us how AARP directly helps Americans in all the districts of the country?

Mr. RAND. Yes, I will. Let me just give you some snippets in the job category. We have helped 53 million job seekers through 2010 with career—53,000. Again, we talked about a drive to end hunger. With tax aid we have helped 2.6 million file free tax returns. Support of schools, provided more than 20,000 youths with supplies in 43 States. The Walgreens bus, we have a tour that we completed, 2 million free health screenings, 359,000 people participated. AARP litigation represents tens of thousands of people at no fee in over 160 cases in 2010 alone. Again, we save utility costs in over 18 States, saved $3 billion for the consumers in those States. We have defended and expanded services for home and community-based care.

Mr. PASCRELL. Thank you, Mr. Rand, and you could go on and on, and I am sure our great chairman would agree with all of those activities in the field. He would not want to end any of those activities——

Chairman HERGER. The gentleman's time has expired.

Mr. PASCRELL [continuing]. Because those are helpful to the citizens which he represents and which I represent.

Thank you, Mr. Chairman, for your cooperation.

Chairman HERGER. I thank you.

At this time I request unanimous consent to enroll into the record a letter from AARP from the chief operating officer Tom Nelson, which states that less than $31 million out of the $650 million in AARP insurance revenue went to the AARP Foundation in 2008.

Mr. BECERRA. Mr. Chairman, reserving the right to object. Has that document been provided to the members of this committee?

Chairman HERGER. This is a letter that is posted on the AARP Website.

Mr. BECERRA. I understand that, and I certainly have no reason to disbelieve the chairman in what he is saying the letter depicts. None of us have seen this, and you are asking for it to be part of the official record of this hearing. And typically what happens is the chairman will make available to every Member any document that is going to be made part of the record. And like this report was never provided to Members before it was given to the media. I just would want to make sure that Members are provided with the information that will be part of this record.

Chairman HERGER. I might mention that the minority has entered already two letters for unanimous consent that have been entered that have not been distributed.

Mr. BECERRA. That is fine, Mr. Chairman. We appreciate, then, the indulgence of the Members who did not object. It is just that this hearing is proceeding in irregular fashion when it comes to this particular report, and so I am just interested in making sure I know what is being put into the record as part of this hearing.

I am responsible to my constituents and anyone in America for what this committee does, and I don't want anyone to believe that I was engaged in any form of witch hunt. And so I am interested in knowing just what is going to be part of the record in this particular hearing. I reserve the right to object.

Chairman HERGER. We can distribute that. Is the gentleman continuing to object?

Mr. BECERRA. Unless I can see that document that the chairman is saying he wishes to submit into the record, I will continue to reserve the right to object.

Chairman HERGER. The gentleman continues to reserve his right to object.

Mr. BECERRA. Mr. Chairman, I have now been handed what I think is—yes. If I could just take a moment to take a look at the letter, Mr. Chairman, I would probably remove my reservation.

Chairman HERGER. The gentleman removes his reservation.

Mr. BECERRA. If I could just take a moment to review the document.

I will remove the reservation.

Chairman HERGER. The gentleman's objection has been removed. So, without objection, the letter will be submitted for the record.

Chairman HERGER. Now the gentleman from Georgia, Dr. Price, will be recognized for 5 minutes.

Mr. PRICE. Thank you, Mr. Chairman, and I want to commend the authors of this report, because I think it brings into question what Mr. Pascrell talked about is a legitimate question as to whether or not the tax-exempt status of AARP is warranted, and I think that is a legitimate question.

I want to open by simply saying that there are a lot of folks in my district who are members of AARP, and a lot of folks who volunteer a lot of time and put their heart and soul into efforts to try to help seniors in our community, and I want to thank them for the work that they do. And I think that they are interested in making certain that the organization that they give so much volunteer time to is functioning and appropriate in a legal manner.

I do want to follow up on—very briefly on the issue of the support for the health care act, because I think that that is part and parcel of the objection of the other side.

And there was such a huge disconnect between seniors in my district about their lack of support for the health care act and Medicare's—or AARP's support for it, and I think that is what caused folks to say—scratch their head and say, well, what is going on here? Is AARP really—do they really have my seniors' best interests in heart, or do they have other reasons to act the way they do?

And you mentioned, Mr. Rand, a number of things that you felt were appropriate in the health care bill, and that is why you supported it, because it ended preexisting allegedly and the like there.

There are some things that we believe happened in that health care bill that seniors adamantly oppose. So you don't believe that seniors support the rationing of care, do you?

Mr. RAND. We don't support it, and I am sure seniors don't support it.

Mr. PRICE. Exactly. And we believe that is in the bill, and so there is that inconsistency.

You don't believe that seniors want it more difficult for them to find a physician to care for them, do you?

Mr. RAND. They have been supportive of the doc fix. We have been supportive of the doc fix.

Mr. PRICE. I get seniors all the time in my district who say, I can't find a Medicare doctor; I can't find a Medicare doctor because of the rules that have been put in place, and believe that that is going to increase. And I know that you don't support that.

You don't support a decrease in innovation of the health care system, do you? Seniors don't, do they?

Mr. RAND. I don't think anyone supports——

Mr. PRICE. Exactly, the lack of innovation.

Mr. PRICE. Exactly.

Mr. RAND. I believe that there are some aspects of the legislation that is there to help innovation.

Mr. PRICE. Absolutely, and there is a difference of opinion, isn't there? So there is a difference of opinion among seniors, just like there is a difference of opinion among the regular population out there, which, again, is why so many of us scratched our head and said, well, what is AARP doing? There is a huge difference of opinion.

In fact, the majority of seniors right now believe that the bill will, in fact, decrease their ability to get the kind of care that they desire. So that is kind of why we say, what was going on?

But I want to shift to this issue of tax-exempt status, because I think it is incredibly important. It is an appropriate question for this committee to ask, is it not, whether or not an entity as large as AARP out there is—is following the appropriate rules to maintain their tax-exempt status? Is that an appropriate function of this committee?

Mr. RAND. I believe the committee has wide powers, and if you want to do that, then it is appropriate.

Mr. PRICE. Great.

And I have here a number of questions that I understand that members of the staff of the folks that put together this report were unable to get from the AARP in spite of the suggestion by AARP that they are open and transparent and they want to share all information. So I wondered if I might be able to ask you if you would be able to supply these things for the committee's availability: How many millions of dollars does AARP receive from its Medigap insurance business? That ought to be something relatively simple, shouldn't it?

Mr. RAND. We will provide any of your asks that we can—that we have sole control over. There are some confidential contracts of which we can't make decisions about by ourselves.

Mr. PRICE. And I appreciate that, and I look forward to seeing those. Things like the added benefits that AARP members received after the AARP insurance revenues increased significantly that members didn't receive in prior years, those kinds of things we ought to be able to get that information on; should we not?

Mr. RAND. Well, we would need some clarification on that one. And if you can put that in writing so that we can clearly understand that particular request.

Mr. PRICE. Well, and I appreciate that. What we will do is submit these questions to you in an effort to try to be transparent and open and to provide the public with the greatest amount of information. Look forward to those responses or why they can't be answered, and I thank you for coming today.

Chairman HERGER. The gentleman's time has expired.

The gentleman from New York Mr. Rangel is recognized for 5 minutes.

Mr. RANGEL. Thank you. Thank you, Mr. Chairman.

I ask unanimous consent that this document called "Behind the Veil: The AARP America Doesn't Know" be placed into the record. I cherish the privileges that we have on——

Mr. THOMPSON. I reserve the right to object.

Chairman HERGER. The right to object has been recognized.

Mr. THOMPSON. Mr. Chairman, the report that my colleague and friend Mr. Rangel is asking be put into the record, has this been peer reviewed by anyone, any organizations?

Chairman HERGER. This is Mr. Rangel's request.

Mr. THOMPSON. I understand; but it is your report. Has this been peer reviewed?

Chairman HERGER. This report has been—we requested it. It has been prepared and it has been submitted.

Mr. THOMPSON. But has it been peer reviewed? That is my only question.

Chairman HERGER. Well, it is before all of you right now. Not any more than other reports are.

Chairman BOUSTANY. Mr. Chairman, might I add that the report has 246 footnotes documenting thoroughly everything in the report. Two hundred forty-three.

Mr. RANGEL. Mr. Chairman, there is a good reason why you two don't want us to know who prepared it and who paid for it and why it is not official. I just want to protect the privileges of Members of Congress not to be challenged when they want to put things into the record. I truly believe that we have a responsibility to protect that record and to know what we are, by unanimous consent, putting into the record.

And so I am asking unanimous consent, notwithstanding the many unanswered questions, that it be placed into the record and then we can proceed to make certain that my motion is not abused by other people who just want to stop people from expressing themselves. So I ask that it be placed in the record by unanimous consent.

Mr. THOMPSON. Mr. Chairman, I withdraw my right to reserve on Mr. Rangel's motion to place this unpeer-reviewed report into the record.

Mr. BECERRA. Mr. Chairman, reserving the right to object.

Mr. RANGEL. This is not taken out of my 5 minutes, I hope.

Chairman HERGER. Your 5 minutes is ticking away, yes.

Mr. RANGEL. This is a procedural matter. It has nothing to do with the time that I am allotted.

Mr. BECERRA. Reserving the right to object, Mr. Chairman.

Chairman HERGER. The gentleman reserves the right to object.

Mr. BECERRA. Mr. Chairman, I will again raise the concern that I have that this report, this document, indicates that it is a report prepared by individual Representatives and——

Chairman HERGER. Okay, this report, we are not subjecting it to the record now. There is objection. We want to move on with this hearing.

Mr. BECERRA. Mr. Chairman, I am reserving the right to object. I believe I have an opportunity to explain my reservation to see if I can get the question I have answered, to see if I will remove my reservation.

Chairman HERGER. The gentleman from Louisiana, Mr. Boustany.

Mr. BECERRA. Mr. Chairman, I believe I have the floor. I have made a reservation to the unanimous consent request. The unanimous consent has not removed or withdrawn, and I have a reservation on that unanimous consent request.

Chairman BOUSTANY. Would the gentleman yield? I will answer his question.

Mr. BECERRA. I yield.

Chairman BOUSTANY. This report was prepared by the two members listed on the cover.

Mr. BECERRA. Mr. Chairman, does that mean that two members used their staff?

Chairman BOUSTANY. Hill staff.

Mr. BECERRA. Hill staff? No Ways and Means Committee staff?

Chairman BOUSTANY. Hill staff were used, and IRS consultant.

Mr. BECERRA. Mr. Chairman, and was it Ways and Means Committee staff that were used to prepare this report?

Chairman BOUSTANY. And Chairman Levin approved it. Chairman Levin was in the loop, and he approved.

Mr. BECERRA. The use of committee staff?

Chairman BOUSTANY. Yes. And the IRS detailee.

Does the gentleman withdraw?

Mr. BECERRA. If the chairman is representing that Ways and Means Committee staff helped prepare this report and that the use of the committee staff was approved by then-Chairman Levin?

Chairman BOUSTANY. Yes. Yes, that is the case.

Mr. BECERRA. I am being told that that is not accurate.

Chairman HERGER. That is accurate.

Mr. BECERRA. My understanding is that Chairman Levin, when Mr. Levin was chairman, approved the detailee from the IRS.

Chairman HERGER. The time of the gentleman from New York's time has expired.

The gentlelady from Kansas is recognized.

Mr. RANGEL. Parliamentary inquiry, Mr. Chairman.

Ms. JENKINS. Thank you, Mr. Chairman.

Chairman HERGER. The gentlelady from Kansas is recognized.

Mr. RANGEL. I said parliamentary inquiry, Mr. Chairman. Let's get a book or something.

Chairman HERGER. Parliamentary inquiry.

Mr. RANGEL. Now, under what provision is the chair denying me an opportunity to question the witness? Now, I made a motion here that had nothing to do with asking the witnesses any questions. And if you are telling me now that because I made a procedural motion, that I, as a member of the committee——

Chairman HERGER. If the gentleman will suspend. We will start over again with 5 minutes for the gentleman from New York.

Mr. RANGEL. Thank you so much for your consideration.

Now, Mr. Rand, since I don't know where this report came from, could you tell me where you think it came from?

Mr. BECERRA. Mr. Chairman, parliamentary inquiry.

Chairman HERGER. The gentleman is recognized for a parliamentary inquiry.

Mr. RANGEL. I hope this doesn't come out of my 5 minutes.

Chairman HERGER. The clock is stopped.

Mr. BECERRA. Mr. Chairman, there was a unanimous consent request that was proffered by the gentleman from New York. As far as I know, that request has not been disposed of.

Chairman HERGER. That is correct.

Mr. BECERRA. I don't see how we can proceed forward with regular order until we dispose of this procedural request for unanimous consent. Therefore, Mr. Chairman, I would ask for regular order to be restored and observed, and let us dispose of this unanimous consent request.

Chairman HERGER. Would the gentleman like a vote on that? Is there objection?

Mr. BECERRA. My question had not been answered. Chairman Boustany tried to answer the question, but the information I am receiving on this side of the aisle is that Ranking Member Levin, when he was chairman of this committee, did not approve of committee staff being used to prepare this report, that he approved the use of a detailee from the IRS. So I am just trying to find out, Mr. Chairman, a very simple, get an answer to a very simple question: Was committee staff used to prepare this report?

Chairman HERGER. The answer is yes. Our committee staff did work to prepare this report.

Mr. BECERRA. Okay. And given that this report was never provided to members of this committee, or a report where committee staff helped prepare it——

Chairman HERGER. It is not a committee report.

Mr. BECERRA. But committee staff resources were used.

Chairman HERGER. It is a member report.

Mr. BECERRA. Mr. Chairman, you may call it a member report, but when committee resources are used, it is members of this committee who have an opportunity and a right to review these reports before they are submitted for broadcast and publication and use by the media, I would hope. Otherwise how are we to be prepared to question witnesses on a report that we are hearing rumor and speculation on from all over the place. So if the case is that this is a report that is being requested to be included in the record, and it was prepared by committee staff, unbeknownst to members of this committee, for it to be considered and submitted into the record as any kind of official document, I would object to that. If the chairman wishes to portray this report as a report by two individual members, who I believe may have misused committee resources, to——

Chairman HERGER. That is what it is.

Mr. BECERRA. Okay. So if it was two members of this committee who misused committee resources to prepare this report, on that basis I will remove my reservation.

Chairman HERGER. Along with Ginny Brown-Waite.

Mr. BECERRA. So those individual members used, without authorization, committee staff resources, with the approval I assume of the ranking Republican at the time, resources of this committee to prepare a report which members of this committee did not have an opportunity to review. With that understanding, I will remove my reservation and allow this report, which is not an official report and prepared under the normal course that this committee is accustomed to preparing reports, to be allowed into the record.

Chairman HERGER. With the objection being removed, we again recognize the gentleman from New York.

I have 4 minutes and 45 seconds.

Mr. RANGEL. You never did say permission is granted to put it in the record.

Chairman HERGER. That permission is granted.

Mr. RANGEL. Okay. Now, Mr. Rand, did you have an opportunity to see this report, The AARP America Doesn't Know?

Mr. RAND. I saw the report. Staff went through it, and that is the reason why I objected to the conclusions.

Mr. RANGEL. Did anyone ask you questions in connection with the preparation of this report?

Mr. RAND. From the committee?

Mr. RANGEL. No, from the authors of the—I have no idea why the committee would be asking you questions. Did the author—do you know who prepared this other than what you have heard this morning? Do you know who prepared it?

Mr. RAND. That was my understanding as you were going through the conversation and reiterated that there were two, three people.

Mr. RANGEL. Did anyone represent the office of this committee?

Mr. RAND. No.

Mr. RANGE. Or make any inquiries of you?

Mr. RAND. No. The answer is no.

Mr. RANGEL. So as far as you know, this could have been prepared by a private, outside organization that would want to discredit your organization as relates to your position on the Affordable Care Act; is there anything that I am saying that is inconsistent with that?

Mr. RAND. We really are not in a position to speculate on that.

Mr. RANGEL. Well, let me try this. Is there anything in this report that would indicate that the United States Congress was involved in investigating this? Or, did anyone hold themselves out to be staff of the United States Congress in making this report?

Mr. RAND. No. It simply went through the names that you have identified.

Mr. RANGEL. So you saw two members' names, but they were not identified as being members of this committee? As a matter of fact, with the exception of the word "reps," they were not identified as Members of the United States Congress; were they?

Mr. RAND. The answer is no, not in the report. So we don't——

Mr. RANGEL. Not in the report, and not in the cover of the report.

Do you have counsel that is hired normally when accusations are being made against your organization? How could you possibly defend it if you don't even know who made them?

Mr. RAND. We do have counsel in the normal procedure.

Mr. RANGEL. Well, I hope you make some inquiries as to why would anyone put out a report and not identify who they are as to where they come from because Rep. Wally Herger and Rep. David Reichert could be a "rep" from the various States that have, what, reps. But there is nothing on this report that indicates that the Congress is involved in the inquiry that certainly is not complimentary to the work that your organization has been doing for half a century; is that correct?

Mr. RAND. It certainly isn't complimentary; that is absolutely correct.

Mr. RANGEL. Well, I hope your counsel will share with me, since it is impossible for me to get any information, it will be in the record, I hope that they would find out exactly what was the motivation behind the report. Because if the motivation is just to refer you to the IRS, anyone can do that without a report. And I would hope that they would ask the questions that I can't get answers for as to what were the resources that were used in order to prepare the report, why there is no identification with the United States Government, the United States Congress, the Ways and Means Committee, the Subcommittee on Oversight and the Subcommittee on Health, and the reason I want it in the record is so that it doesn't disappear. I want this in the record. I want you to be able to use this in the record, and I want to make certain that the ability that we have to put whatever we think is helpful to an inquiry, helpful to a hearing, that no member be denied for partisan reasons the opportunity to put it in.

So, Mr. Chairman, let me thank you for this opportunity. I yield back the balance of my time, and I thank you for your answers, and I look forward to working with you to see that America continues to receive the best possible health care that we can provide.

Mr. RAND. Thank you, sir.

Chairman HERGER. The gentleman yields back.

Again, this is the report. It says right on the report: Investigative report prepared by Representative Wally Herger (R) of California and David Reichert (R) of Washington. Inside it mentions recognition of former Representative Ginny Brown-Waite who represented the Fifth District of Florida, and throughout it indicates congressional inquiries. So I think it is very clear. I think it is important that we not have this as diverting our attention from what the purpose, the very real purpose of this hearing is.

Mr. RANGEL. What are you reading, Mr. Chairman? I have the document that has been distributed.

Chairman HERGER. With that, the gentle lady from Kansas, Ms. Jenkins, is recognized.

Ms. JENKINS. Thank you, Mr. Chair, and thank you for being here to answer our questions.

As representative Roskam noted earlier, Representative Nancy Pelosi, the Democrat minority leader, is on record as having complained that AARP is in the pocket of Republicans, and she suggested that "because you sell insurance to your members there is a conflict of interest." I am just curious if you believe Leader Pelosi is wrong? And in the interest of time with the bells ringing, just a simple yes or no, Mr. Rand?

Mr. RAND. Yes. We don't believe anybody who says that we are in the pockets of anybody.

Ms. JENKINS. So Leader Pelosi is wrong. Representative Pete Stark, a Democrat from California, is quoted as saying: "AARP members know they are being sold out by an organization that is happily using member dues and Medigap premiums to promote a Medicare bill that does more harm than good."

Do you agree with Representative Stark?

Mr. RAND. We do not.

Ms. JENKINS. Representative Rangel from New York is quoted as saying "AARP has forgotten where they come from because once you get into the business of making money with the devil, you forget your mission."

Is Representative Rangel wrong?

Mr. RAND. We have not forgotten our mission.

Ms. JENKINS. Representative John Larson, a Democrat from Connecticut, is quoted as saying: "Why does the national AARP leadership support a bill that meets almost none of their clearly stated needs and conditions?" Is Representative Larson right to question this logic?

Mr. RAND. We have said in testimony that there were a number of items.

Ms. JENKINS. Just yes or no? Is he right in questioning this?

Mr. RAND. I don't believe he is right in questioning this.

Ms. JENKINS. Former Representative Rahm Emanuel, a Democrat from Illinois, is quoted as saying that "AARP's latest step forward into the insurance realm gives him some pause. When there are principles about Medicare drug prices and reimportation run into their business practices, which goes, business practices or principles?"

I would just like you to answer Rahm's question, which goes, business practices or principles?

Mr. RAND. We are first with principles and policy.

Ms. JENKINS. And finally, 85 Democrat Members of Congress led by Representative Lynn Woolsey from California signed a letter to AARP's CEO resigning their membership or stating that they would not be joining the group in the future. The letter stated that the AARP, this is a quote: "AARP's misguided decision to embrace this legislation and sacrifice the future of Medicare must go unchallenged."

I am curious if you know if any of those 85 Members were true to their word and have continued to boycott AARP?

Mr. RAND. I do not know. We have always stood for our policy.

Ms. JENKINS. Could you find out for us?

Mr. RAND. We will.

Ms. JENKINS. Thank you. The point I would like to make is that I think we have run across something that Democrats and Republicans in Washington can agree on, and perhaps that is that the AARP leadership doesn't necessarily protect the best interests of the American senior citizens that they pledge to represent. So I simply beg of you as representing the leadership of AARP, please don't mislead our seniors who sent all of us, Democrats and Republicans alike, to this body to represent them. Please don't use them as pawns to line your pockets on their backs.

With that, I yield back.

Mr. RAND. Can I comment? Mr. Chairman, may I comment?

Chairman HERGER. The gentlelady yielded back.

I think it is very important, very important, that we not allow the purpose of this hearing to be taken in a different direction. The seniors of this Nation deserve the right to know how money is being spent and whether it is being spent in their best interests.

With that, I yield 5 minutes to the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I actually agree with that notion about the senior citizens. I would first of all like to thank AARP because I have not always agreed on some issues, but I respect the work that is done. The folks back home provide lots of energy and activity. I for one am sorry that you are subjected to something of this nature because I truly think, reading through a 25 and a half page pamphlet with 243 footnotes, to try to dress it up to try to make it look official and authoritative and scholarly misses the mark.

I find it fascinating on page 17, you are taken to task because somehow you are undermining your long-term business interests because you have underwriting standards that are more flexible and speak to the needs of people who are 50 to 64 that costs potentially some money, and you are taken to task for that.

Well, you supported the Affordable Care Act, which now requires every American to have these protections, which you undertook at perhaps some financial disadvantage to your model, because you thought it was the right thing.

I remember that when some Members of Congress who used to support helping seniors with end-of-life care, when the big lie about death panels, and they retreated, AARP was part of 400 individuals and groups that came forward to tell the truth. Now just because somebody, like my friend from Georgia, thinks something is in the bill, doesn't put it in the bill. And I appreciate your zeroing in.

This report takes you to task because AARP had the audacity, the audacity, to support the children's health program expansion, assuming you did that only for some sort of convoluted financial benefit, ignoring the fact that your members have children and grandchildren and great grandchildren, and we all want intergenerational cooperation.

Mr. Chairman, I have read it. I think it is a little bit goofy. With all due respect, the notion somehow that they focus on Medicare Advantage that is rocky and is a draconian cut, Medicare Advantage means that 75 percent of your members who are senior citizens in fee-for-service pay $90 a year more. So maybe trying to reform Medicare Advantage speaks to the 75 percent of your members and 75 percent of America's seniors who are paying more because a system got out of hand.

Mr. RAND. You have expressed our rationale.

Mr. BLUMENAUER. I just think that I am glad it is in the record. I hope people look at it. "Witch hunt" is such a nasty term. I look forward to bringing before us people who have really crossed the line, people who have commingled funds and pushed the limits or crossed over them in terms of IRS regulations. But I think any fair reading is that your work on preexisting conditions, children's health, end of life, Medicare reform, speaks to what we need to be doing as a country and as a Congress. Sadly, this morning's exercise moves us no further along towards the implementation. But the things that you came out for back in the day used to be bipartisan supported. And some day they will again.

I appreciate your efforts. Again, I apologize for being a part of this, but I do hope people analyze this and understand that it is no indictment of AARP. It does say something about this committee's operation.

Thank you, and I yield back the balance of my time.

Chairman HERGER. The gentleman yields back.

I think it is important to note that AARP, in its written and oral testimony, did not refute any specific conclusions or findings in this report. Neither ranking member refuted any specific conclusions or findings in this report in their opening statements. So all of this talk about which congressional staffer was involved with the report or who the committee will investigate next is simply a stunt to draw attention away from the findings of the report; specifically, that AARP stands to gain an additional $1 billion over the next 10 years as a result of the Democrats' health care law.

With that, I yield 5 minutes to——

Mr. LEWIS. Would the chairman yield?

Chairman HERGER. With that, I yield 5 minutes——

Mr. LEWIS. This is a stunt.

Chairman HERGER. With that, I yield 5 minutes to the gentlelady from Tennessee, Mrs. Black, to inquire.

Mrs. BLACK. Thank you, Mr. Chairman.

I want to begin by saying how disappointed I am that this has been turned into what people say is a witch hunt. It is the role and responsibility of this subcommittee, when there are things that seem to be outside of what should be happening, that we should investigate. It is the role and responsibility. I would hope that Members on the other side of the aisle that have concerns about other organizations that may not be operating or may have questions, that they bring that before this committee.

And so my question I want to turn to you just comes from my own personal experience prior to coming here to Congress. I was an executive director of a 501(c)(3), a health care foundation. We were very careful because we were providing funds for the hospital for which we were the foundation about commingling our members of our boards. One of the things that concerned me as I read this report was the fact that your AARP, Inc., the 501(c)(4) tax exempt social welfare organization, is run by 22 board members. But you also have seven board members from your for-profit, and all seven of those board members also serve on your other board. So I am concerned about the commingling of board members from your for-profit from your not-for-profit. If you could speak a little bit about that, I would appreciate it.

Mr. HAMMOND. I would be glad to, Mrs. Black, if I could. I am not sure what for-profits you are talking about with seven members. Are you talking about the grantor trust, the insurance trust?

Mrs. BLACK. Explain to me how many different boards you have.

Mr. HAMMOND. Thank you. I appreciate that question because it needs to be clarified.

There are basically three different boards that are involved in the AARP organization. One is the parent board, which is the AARP board.

Mrs. BLACK. And is that the 22 members?

Mr. HAMMOND. That is the 22-member board. It is 22 during this body. There is another board which is the board for ASI, our tax-paying affiliate, which has on it two AARP board members.

Mrs. BLACK. Okay.

Mr. HAMMOND. There is a third board, which is the AARP Foundation board, which has four board members on it. There are seven total, but four AARP board members are on the Foundation board.

The purpose of those interlocking boards, the purpose of having the AARP board members on those interlocking boards, is to make sure that the mission of AARP is the first priority of each of the boards and that everything that goes through those boards is in concert with our AARP policy and our mission.

Mrs. BLACK. So which of those boards sets your rates, the premium rates?

Mr. HAMMOND. The premium rates are set by the State insurance——

Mrs. BLACK. You have a contract with United. Who oversees those contracts? Which one of those boards oversees the contracts?

Mr. HAMMOND. The contracts are not overseen by the board, they are overseen by ASI, which is our for-profit. They manage and oversee the contracts.

Mrs. BLACK. You do have members from your for-profit on your not-for-profit; correct?

Mr. HAMMOND. We have two board members from AARP who are members.

Mrs. BLACK. Which is the non-profit arm?

Mr. HAMMOND. On the seven-member board of the ASI.

Mrs. BLACK. And so with these three different boards, are they all in the same office?

Mr. HAMMOND. No.

Mrs. BLACK. So they have three different offices?

Mr. HAMMOND. They have three different offices. They meet at three different spots.

Mrs. BLACK. With three different managers.

Mr. HAMMOND. There is the president of the Foundation and there is the president of ASI.

Mrs. BLACK. But as far as your managers go, your administrative staff, so they are all three separate administrative staff?

Mr. HAMMOND. They are separate. If there are a few occasions where they may be commingled, their time is set. But there are only a few of those occasions. Most of the work is done by the staff of those individual entities.

Mrs. BLACK. Mr. Rand, are you the CEO over all three of these entities?

Mr. RAND. No. The board—they report to their separate boards. I am the CEO of AARP, the (c)(4).

Mrs. BLACK. The (c)(4)?

Mr. RAND. Yes.

Mrs. BLACK. The nonprofit (c)(4)?

Mr. RAND. Yes, that is correct.

Mrs. BLACK. Do you sit as an ex officio on any of these other boards?

Mr. RAND. I sit on the board of ASI as a nonvoting member.

Mrs. BLACK. Okay. I am concerned about the intermingling of these board members and veto power and the decisions that are being made by each one of these groups and these members being commingled. I am concerned about that, and I will be interested to see, once IRS looks at the way in which you manage your organization by the commingling of these, what they have to say because I know how sensitive of a situation that was as I served as the executive director of a non-profit and the for-profits.

Thank you.

Chairman HERGER. The gentlelady's time has expired.

With that, we have a series of votes, so we will recess and reconvene immediately after the votes and we will continue with this panel. I apologize. It will probably be about an hour, but I appreciate your indulgence.

With that, we are recessed.

[Recess.]

Chairman HERGER. The committee reconvenes.

I would like to first recognize the chairman of the subcommittee, Mr. Boustany, for a quick comment.

Chairman BOUSTANY. I thank Chairman Herger.

I want to make clear a previous comment I made about Mr. Levin's approval of the IRS detailee that I spoke of earlier in our discussion. I want to be really clear so there is no confusion here. When Mr. Levin requested from IRS Commissioner Shulman an IRS detailee be assigned to the Republican staff of the committee, the detailee would be looking into, and I quote from Mr. Levin's letter, "in areas related to tax-exempt organizations and other matters of interest to the Ways and Means Committee."

Mr. Levin was not aware that the detailee would be working on the investigation specifically of AARP. I just wanted to offer that clarification.

I yield back.

Chairman HERGER. The gentleman yields back.

The gentleman from California, Mr. Becerra, is recognized for 5 minutes.

Mr. BECERRA. Mr. Chairman, thank you very much for yielding the time, and I thank Chairman Boustany for the clarification which I think simply leads to more confusion because the reality is here that we are looking at a document that was prepared without I think the knowledge of most every member on this committee. It appears to be a document that was prepared without the committee staff's full participation. Certainly nowhere in the document does it indicate that this is an official report, certainly not an official investigative report by the Ways and Means Committee. And in my 12-plus years of being on this committee, this is the first time I have seen us conduct business this particular way.

We are a week away from a government shutdown where this House has been unable to reconcile its differences with the President, and there are Members on the other side of the aisle who are talking about the need to shut the government in order to make the case. We are watching as this discussion about a budget has become more an issue about a social agenda that some Members believe should be attached to a fiscal bill, and I would think that most people watching with us just a week away from seeing this government shut down and the services that would be provided to all of the seniors that might be interested in this hearing in jeopardy as a result of a government shutdown, that they would probably look at this and wonder: Is this the way that those who took control of the House of Representatives intend to govern?

I don't believe this is any way to run the largest economy in the world or the smallest business on Main Street. So I hope that we get down to the real business, which I thought and I remember on both sides of the aisle, people campaigning back in November talking about job creation; jobs, jobs, jobs.

I don't know how having this hearing today where we have requested Mr. Rand and Mr. Hammond to come testify does anything to help create jobs. To some degree maybe it is better that if this is the way that the House of Representatives is going to operate that this is all we do because fortunately, with the work that was done in the last 2 years with the President, this Congress was able to get this economy back on track. We just heard this morning that the economy was able to generate another quarter of a million new jobs in the last 2 months, 450,000 jobs created in the private sector. But then again when you recognize that in January of 2009 when new President Barack Obama was handed the keys by outgoing President George Bush, we hemorrhaged 780,000 jobs, and you see the type of work that we have in front of us.

So this committee, which is perhaps the most important committee in the House to help the private sector stimulate that job growth that we need to see, we find ourselves essentially engaged in a discrete, aggressive attack on an organization that represents, and has for many decades, perhaps the population in America which deserves the most respect, those who made it possible for us to be here.

I guess this is the business of the day, and so we will conduct the business of today.

I do hope, and Chairman Boustany has said this and so I applaud him for having said this, that we will continue to do oversight because whether Mr. Rand or Mr. Hammond or AARP, or any other organization wishes to get favorable treatment from the taxpayers of this country, we have an obligation to do oversight to make sure that no one abuses the opportunity to be treated differently in the Tax Code than any other American who is paying his or her full share of taxes.

I think it would have been wholly appropriate to have AARP or any other non-profit come before this committee and explain itself if we legitimately thought there was something going on. Mr.

Chairman, I hope we will conduct true oversight because I can tell you about any number of organizations that have swindled the American public out of precious contributions and done very few things that are good for this country.

Perhaps the biggest concern I have, and it is actually kind of funny, today I realized as I was walking back, today is April 1, April Fool's Day. And if it weren't for the fact that we have been at this for over 4 hours, it would be a joke. But this is not a joke. And my sense is it is not a joke because I suspect what we are trying to do here, what some are trying to do here through these hearings is perhaps to silence voices, instead of having full participation in this process.

So, I hope, Mr. Chairman, this is not an effort to try to silence voices of people who represent seniors in America. My understanding is that with regard to Medicare and Medicaid and Social Security, there are efforts underway to cut the benefits for seniors in America, and I hope that this House is willing to do the hearings that it takes to show the American people that we are working for them and not against them.

I yield back the balance of my time.

Chairman HERGER. Mr. Kind is recognized for 5 minutes.

Mr. KIND. Thank you, Mr. Chairman. I want to thank the gentlemen for your presence here today. It has been a long time and your patience is appreciated. To echo what my colleague from California said, you might think this is some type of cruel April Fool's Joke, hauling you before a congressional committee, but it really isn't. I mean, whenever you are subjected to a prosecutorial inquiry before a United States Congress committee, it is a serious matter. And I think it is unfortunate. I don't want to ascribe any motives on the other side, but on the surface at least, this appears to be a form of selective retribution or political retribution here.

There are many other organizations and individuals who could be sitting out there right now answering the same types of questions and inquiries that you have been subjected to over the last few hours, but they are not. I think that is unfortunate because if there is anything that ultimately works for the Tax Code, it is the feeling that it is being applied and addressed fairly to everyone in this country and not being used as some type of a political weapon.

We can go through a litany of organizations that are collecting royalties and licensing fees that are tax exempt under the Code, from television stations to universities, to the Chamber of Commerce to NFIB to the Association of Health Insurance Plans, and on and on and on, that the same questions could be directed to here. On the surface, this just smacks of political retribution.

Everyone on this committee, I am sure, has not been in complete agreement with AARP and where they come down on policy issues. I wasn't with you in 2004 when you were supporting the Medicare Modernization Act, which also created the new prescription drug benefit plan for seniors, and the main reason I wasn't was because it was largest expansion of entitlement spending since Medicare was created in 1965, and not a nickel of it was paid for. It all went to deficit financing. And there was language in it that prohibited the price negotiation with drug companies in that bill. Significant policy differences.

And yet Republicans, when they were in control of the Congress then, that was a bill that they offered. You had supported it. They were not coming back the next week or the next month subjecting you to these type of questions. It was only after you had the audacity to support the Affordable Care Act that they want to haul you before them and start questioning you about your royalty payments, when again a list of organizations could very well be subjected to the same line of inquiry.

In fact today, Mr. Chairman, former Representative, a colleague, Billy Tauzin, wrote an article for the Politico, a Capitol Hill publication here entitled, "Don't Play Politics With AARP." In that Article I would just like to quote one paragraph that he wrote: "The fact is that the organization, AARP, gets significant revenue from licensing its name to others and selling products. But that isn't unusual. Many non-profit health insurers, like Care First, member organizations like NRA, trade associations like the American Bankers Association, and human service activities like the Red Cross, get significant revenue from product sales or name licensing." That is the point I was just making.

Mr. Rand, maybe you could inform the committee, how many dues-paying members does AARP have today?

Mr. RAND. 37 million, sir.

Mr. KIND. About 37 million, just shy of 40 million. Yet it is my understanding that AARP does not spend a nickel directly advocating the election or the defeat of any candidate running for office in the United States; is that correct?

Mr. RAND. That is correct. And we don't have a PAC.

Mr. KIND. And you don't have a PAC. So you are not contributing any campaign funds to any person, Republican, Democrat or otherwise, running for office?

Mr. RAND. That is correct. We are nonpartisan and bipartisan.

Mr. KIND. And I don't want to put you on the spot, but the Sixty Plus organization that views themselves as the conservative alternative to AARP, do you know how many dues-paying members the Sixty Plus organization has?

Mr. RAND. I don't know. Not many.

Mr. KIND. Well, let me answer that for you: None. Zero. They take all their contributions from wealthy interests out there that don't have to be disclosed. They turn around and run negative attack political ads against candidates throughout the country, and they are a tax-exempt organization. It is not surprising that we don't find them sitting next to you here today either, because they basically went on the attack against Democratic candidates in the last election cycle.

Let me also ask you, getting to the crucial question here, I think AARP supported the Affordable Care Act and we want to know why today. Was it because there was a direct financial benefit for you of what was in this legislation that was passed? Or was it based on substantive or policy reasons on why you supported the Affordable Care Act?

Mr. RAND. It had nothing to do with revenues. It was 100 percent focused on our mission and what our seniors and 50-plus populations were saying that they needed for the American dream.

Mr. KIND. And what more specifically that you found in the Affordable Care Act that made sense for your members to come out in support of that?

Mr. RAND. We talked about no preexisting conditions, which is what they wanted, what we advocated for. The stopping of age discrimination through age rating which they said as we get older we have less money.

Chairman HERGER. The time of the gentleman has expired.

I want to thank our witnesses, you, Mr. Rand and Mr. Hammond, for participating in today's hearing. With that, that will conclude our first panel, and I would like to call up our second panel, please.

Mr. LEWIS. Mr. Chairman?

Chairman HERGER. The gentleman from Georgia.

Mr. LEWIS. Mr. Chairman, I would like to raise a question of committee procedure.

Mr. Chairman, according to the hearing advisory released March 25, any organization has until April 15, 2011, to submit written comments as long as they follow the process set forth in the advisory; is that correct?

Chairman HERGER. Yes, that is correct.

Mr. LEWIS. And that applies to any organization; is that correct?

Chairman HERGER. That is correct.

Mr. LEWIS. So, Mr. Chairman, would that also apply to our witnesses before us today, AARP?

Chairman HERGER. Our witnesses today have had an opportunity to submit their testimony for this committee, so they have already had that opportunity.

Mr. LEWIS. It is my understanding——

Mr. RAND. May I respond to that, Mr. Chairman?

Chairman HERGER. Again, AARP has had their opportunity to submit their testimony and submit for the record, so that has already been extended to them.

Mr. LEWIS. Well, Mr. Chairman, it is my understanding that the report is 26 pages long with 243 footnotes and was only released on Wednesday. This was not sufficient time for AARP to review and develop written comments. We should have the benefit of a full record. That is the point, to get your questions and all of our questions answered.

Chairman HERGER. I would mention to the gentleman that we met with AARP 2 weeks ago and went over this report with them, so they have had 2 weeks to be able to submit to us their report.

Again, I would like to move on to our second panel.

Mr. RAND. Can I just correct that? We went over four pages, Mr. Chairman.

Mr. RANGEL. I ask unanimous consent that the witnesses be allowed to submit additional information for the record.

Chairman BOUSTANY. I reserve the right to object. I object.

Mr. RANGEL. With this witness?

Mr. KIND. Not us, the witnesses before us.

Chairman BOUSTANY. The witnesses have provided testimony.

Mr. LEWIS. Mr. Chairman, could I refer to the advisory, a direct quote from the advisory? A person or any organization wishing to submit for the hearing record must follow the appropriate link of the hearing page of the committee Website and complete the information or form from the committee home page.

Chairman HERGER. Just a quote from our advisory. In view of the limited time available to hear from witnesses, oral testimony at this hearing will be from the invited witnesses only. However, any individual, organization not scheduled for an oral appearance may submit a written statement for consideration by the committee and for inclusion in the printed record of hearing. A list of invited witnesses will follow.

The chairman, again, would like to thank our witnesses. We would like to move on to our next panel. I want to thank you for your patience and waiting over for the hour plus that you did.

And I would like to call up our next panel, please.

Mr. RAND. Thank you, Mr. Chairman.

Chairman HERGER. Thank you.

Mr. RANGEL. Thank you.

Chairman HERGER. I would like to introduce the second panel's witnesses. Mr. William Josephson is a nationally recognized expert on tax-exempt and nonprofit organizations. He is currently of counsel at Fried, Frank, Harris, Shriver and Jacobson LLP, New York. He joined the firm in 1996, became a partner in 1967, and retired in 1999.

He was appointed assistant attorney general in charge of the New York State Law Department's Charities Bureau in 1999. He served in this capacity for 5 years under then-attorney general Eliot Spitzer.

Mr. Josephson's opinions on nonprofit issues are frequently reported in The New York Times, Washington Post, The Chronicle of Philanthropy and other newspapers.

I would also like to recognize Ms. Frances Hill, professor of law, University of Miami School of Law, Coral Gables, Florida. Ms. Hill has a Ph.D. in government from Harvard University, where she majored in political theory and comparative politics, and a J.D. from the Yale Law School.

Professor Hill teaches courses in taxation, including corporate tax, bankruptcy tax and the taxation of exempt organizations, constitutional law and election law. Her current scholarship focuses on bankruptcy tax, and constitutional issues and election law.

You will have 5 minutes to present your testimony. Your entire written statement will be made a part of the record.

Mr. Josephson, you are now recognized for 5 minutes.

STATEMENT OF WILLIAM JOSEPHSON, J.D., OF COUNSEL, FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP, NEW YORK, NEW YORK

Mr. JOSEPHSON. Thank you, Mr. Chairman. I am very happy to be here today. I want to make it very clear that I am not a health care person.

What I have done is looked at the report in question, the investigative report in question, as if it had been a complaint that had been filed with my office, whether at a time when I was counsel to the Peace Corps or other government agencies, or when I was the head of the Charities Bureau, from the point of view of whether or not the contents of the report would, in my judgment, warrant further inquiry or further investigation, and my answer to that question is yes.

What I would have done if this had been a complaint filed with me is I would have solicited the cooperation of the organization; ask it to make available information, much of which would be similar to the information the committee staff has already asked for, but I would go much deeper, actually, than the committee staff has asked. And if I did not receive that kind of cooperation, I would regrettably use my subpoena power to acquire it. Why? Because the totality of information contained in the report raises the question into my mind as to whether or not this organization is truly a nonprofit or, in fact, is a business.

In that connection, there are many areas that I would particularly examine. I would try to understand the complexity of the organizational structure. I would examine the extent to which its board and officers, in fact, exercised their fiduciary responsibilities of due diligence, of prudence, of candor. The same would be true for the fiduciaries of each of the eight affiliates of AARP.

I would look at AARP's expenditures, especially those for its exempt purposes, as a percentage of its total expenditures. I would ask how much AARP actually spends not just at the Federal level, but also at the State and local levels on lobbying.

I would try to find out the adequacy of AARP's internal controls, its documentation retention policies, its whistleblower protection policies, the scope of its external audit function, and any management letters AARP has received from its auditors.

AARP classifies much of its income, as the committee knows, as royalties. When the Congress exempted royalty income from the unrelated business income tax, it did not define royalty. I think that was a grievous error. Consequently, the IRS and the courts have struggled to apply the concept of royalty to various kinds of nonprofit income to determine whether or not, in fact, it was a royalty, which I understand traditionally to be a percentage of gross income that goes up or down depending on how successful the product to which it attached is, or whether or not, in fact, as the report may suggest—I emphasize "may suggest"—the amounts characterized by AARP as royalty really are closer to insurance commissions, which I believe would be subject to unrelated business income tax. This is a factual inquiry that is not necessarily resolved by questions of law.

This is an issue, actually, on which I agree 100 percent with Professor Hill's statement, and she is, in fact, a highly respected colleague of mine in the not-for-profit tax area, where she, too, talks in her statement about the uncertainties that involve the application of royalty to various situations.

AARP's compensation and benefits are issues, including to what extent all of its fiduciaries, officers, managers receive compensation from multiple sources.

Unfortunately, in conclusion, I would like to say that the resources that the IRS has available to itself with respect to the oversight of tax-exempt organizations are completely inadequate. I can cite two examples that the committee should be familiar with.

The Pension Protection Act of 2006 asks the IRS to produce within a year a study of supporting organizations.

Chairman HERGER. If you could conclude your testimony, and the rest of it will be submitted for the record.

Mr. JOSEPHSON. Thank you.

Chairman HERGER. Thank you. Thank you very much, Mr. Josephson.

[The prepared statement of Mr. Josephson follows:]

TESTIMONY IS EMBARGOED UNTIL APRIL 1, 2011 AT 9:00 AM

Statement of William Josephson
Before
Health Subcommittee
Committee on Ways and Means
House of Representatives
Washington, D.C.
April 1, 2011

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you to talk about the Investigative Report about AARP's Organizational Structure and Finances.

1. Introduction. I am a retired partner in the law firm of Fried, Frank, Harris, Shriver & Jacobson, LLP and a member of the bars of the District of Columbia, State of New York, Tax Court and the Supreme Court of the United States, among other courts.

While a partner at Fried, Frank, part of my practice consisted of advising on corporate, trust and tax issues involving federal income tax exempt organizations.

Moreover, from April 1999 until August 2004, I served as the Assistant New York Attorney General-in-Charge of the Charities Bureau of the New York State Law Department during Attorney General Eliot Spitzer's first term.

I have also served as an expert witness and adviser to the Attorneys General of the States of New Jersey and Tennessee with respect to exempt organization enforcement issues, as well as an expert in private civil litigation with respect to those issues.

I was a member of the Independent Sector's Expert Legal Advisory Panel with respect to IS's responses to various 2004 proposals of a committee of the other body about which proposals I have also testified before it.

I have published with respect to tax exempt organization issues. A copy of my resumé is attached to my statement. It lists those publications.

I have had too brief an opportunity to review the Investigative Report which is the subject of this hearing, and I have not had any opportunity to review any of the extensive documentation underlying that Report. Therefore, I hope the Subcommittee will understand that my comments will be at a level of generality.

2. <u>AARP's Complex Organizational Structure</u>. The complexity of the AARP organizational structure in 2010 as set forth in the Report, and in particular in Chart 1 on page nine of the Report, is unprecedented in my experience. It is not uncommon for an Internal Revenue Code section 501(c)(4) tax exempt organization like AARP, Inc. to have a for-profit subsidiary and/or to have a related Code section 501(c)(3) tax exempt organization. But it is uncommon for such a tax exempt organization to have eight affiliates, some for profit and some tax exempt.

The legal and accounting issues thus raised would require an extraordinary amount of further study by me before I could express an opinion about them. However, I can express the opinion that further investigation is warranted by (a) the Committee, (b) the Internal Revenue Service which has in the past had concerns about AARP as set forth in the Investigative Report and (c) the General Accountability Office. Much more AARP document production about itself and each of the affiliated organizations and their relationships is required. I would be particularly interested in whether or not the AARP Foundation and the AARP Institute, both of which are section 501(c)(3) tax exempt organizations, meet the organizational and operational charity tests under the Treasury Department's regulations. I would also want better to understand the AARP Insurance Plan which is described in the Report as a grantor trust. In particular, the IRS should consider withholding prior approval for AARP filing a consolidated 2010 990, so that investigators should not have to separate the finances of AARP and of each of its affiliates.

3. Code Section 501(c)(4) Issues. As the Committee knows, the Treasury Department's regulations under Code section 501(c)(4) are meager, to put it mildly. They deserve, in my opinion, considerably more tax policy and legislative attention to the adequacy of the laws and regulations governing section 501(c)(4) organizations.[1]

According to the Internal Revenue Service's tax exempt organizations work plan for 2011, it is starting a new project that will examine the activities of section 501(c)(4) organizations, but over the next several years.

But I will return to the question of the adequacy of the IRS's exempt organization resources at the end of this statement.

4. AARP Governance. Another issue that, in my opinion, requires further investigation by the Committee is the qualifications and independence not only of the AARP, Inc. Board of Directors, as set forth in Chart 2 of the Investigative Report, but of any Board subcommittees membership. Good governance issues also include how frequently the Board and any subcommittees meet, the quality of attendance at those meetings. Equally important is the governance structure of each of the eight AARP Inc. affiliates described in Chart 1.

[1] In this respect, the inadequacies of the law and regulations affecting section 501(c)(4) organizations reminds me of the inadequacies of the law and regulations under section 4944 of the Internal Revenue Code. As I recently testified before a committee of the other body in connection with the Madoff ponzi scheme scandal, they also require review by both the Internal Revenue Service and the Congress.

5. Royalty. Another important area for further Committee investigation, in my opinion, is AARP's treatment of income from its insurance business as unrelated business income (UBI) tax exempt royalty income under section 512(b)(2) of the Code. "Royalty" is not a defined term anywhere in the Code or regulations.[2] The dictionary definitions of royalty for these purposes is "a share of the product or profit reserved by the grantor."[3] The examples given are an oil or a mining lease and what is paid to an author, composer or inventor. The Treasury Department's section 1.512(b)-1(b) regulations are consistent in referring to, for example, "overriding royalties," and "mineral royalties . . . whether measured by production or by gross or taxable income." In my 55 years of law practice, royalties usually entail percentages of gross or net income.

While further investigation is required, the impression I have from reading the Investigative Report is that the income AARP receives from its insurance business, which it treats as UBI tax exempt royalties, is not necessarily measured by production or by gross or taxable income, but is, in fact, more like flat fee commissions paid on each insurance policy sold. If so, there would be a substantial issue as to whether or not such commission income is properly excluded from UBI tax as a royalty under the Sierra Club line of decisions or more properly included as income under the Texas Farm Bureau line of decisions.

In this connection, I have examined summaries of the rulings that the Internal Revenue Service has issued with respect to royalty income under Code section 512(b)(2) and its regulations. It is difficult for me to see a consistent basis for IRS rulings that a particular transaction is or is not a royalty. This lack of coherency is, in my opinion, another reason for

---

[2] See Texas Farm Bureau v. United States, 53 F.3d 120, 123 (5th Cir. 1995) (Wisdom, J.); Sierra Club Inc. v. Commissioner, 86 F.3d 1526, 1531 (9th Cir. 1996).
[3] Sierra Club at 1531-32.

further exercise of the Congress's legislative and the IRS rulemaking jurisdiction with respect to these issues.

Another UBI issue is the treatment under Code section 512(b)(13) of the amounts AARP receives from its controlled entities.

6. AARP Compensation and Benefits. Another issue raised by the Investigative Report that, in my opinion, is worthy of further legislative and regulatory attention is the compensation and benefits paid by AARP and its affiliates to their directors, trustees, officers, key employees and foundation managers. Questions with respect to compensation and benefits have received increasing attention in recent years from both the Congress, the IRS and the state charity regulators. In that connection, the IRS has made significant changes in its Form 990. For example, page 14 of the 2010 instructions for Form 990 contains the following:

> An **excess benefit transaction** can have serious implications for the **disqualified person** that entered into the transaction with the organization, any **organization managers** that knowingly approved of the transaction, and the organization itself. A section 501(c)(3) or section 501 (c)(4) organization that becomes aware that it may have engaged in an **excess benefit transaction** should obtain competent advice regarding section 4958, consider pursuing correction of any excess benefit, and take other appropriate steps to protect its interests with regard to such transaction and the potential impact it could have on the organization's continued exempt status. See Appendix G, Section 4958 Excess Benefit Transactions, for a discussion of section 4958, and Schedule L (Form 990 or 990-EZ), Part I, regarding reporting of **excess benefit transactions**.

I particularly want to mention that the Form 990 reporting instructions under Part VII at page 24 state:

> Organizations must report compensation for both current and former officers, directors, trustees, key employees, and highest compensated employees. The distinction between current and former such persons is

> discussed below. The determination of "former" uses a 5-year look-back period.
>
> Organizations must report compensation from themselves and from related organizations, which generally consist of parents, subsidiaries, brother/sister organizations, supporting organizations, and supported organizations. See the instructions for Schedule R (Form 990) for a fuller discussion of related organizations.

(emphasis added)

7. Inurement. Another area appropriate for further legislative and regulatory oversight concerns the section 501(c)(3) organizational and operational test, "no part of net earnings of which [exempt organization] inures to the benefit of any private shareholder or individual." Code section 501(c)(4)(B) contains a similar requirement applicable to section 501(c)(4) organizations like AARP Inc.

Again unfortunately, the law and regulations with respect to what constitutes private inurement is meager. That phrase is too succinctly defined in Treasury Department regulation section 1.501(a)-1(c), "persons having a personal and private interest in the activities of the organization." Treasury Department regulation section 1.501(c)(3)-1(f)(2)(ii) contain what we call a facts and circumstances test with respect to this issue. Those regulations also link to the excess compensation and benefits provisions of Code section 4958 and the regulations thereto.

While the above-quoted Form 990 instructions link both section 501(c)(3) and section 501(c)(4) exempt organizations to the excess compensation and benefits Code section 4958 and regulations, as does the Committee's report, neither Code section 501(c)(4) nor the regulations thereunder contain such an explicit link. However, Code section 4958(e) does provide the link to section 501(c)(4) organizations.

8. IRS Resources. As a former state charities regulator, I have been concerned for many years with the absence in most states, and in this respect I include the District of Columbia and Delaware where I understand most of the AARP entities have been created, of effective state charities regulation. Except for all but a few states, in default the IRS has become the most effective charities regulator. Unfortunately, the IRS is unable to devote to tax exempt organizations the necessary resources as General Accountability Office and other studies have shown.

The Committee, I am sure, is aware that the excise tax on private foundation income in section 4940 of the Code was originally intended in 1969 to be allocated to the IRS, without appropriation, for exempt organization oversight and enforcement. That, unfortunately, has never happened.

I have been around Washington long enough to know how difficult it is to earmark funds for government activities that are not subject to appropriation. But there are precedents, and perhaps someday, hopefully soon, due to the Committee's renewed interest in the tax exempt organization area, the IRS will finally get the resources it needs as the primary tax exempt organization regulator.

I would be pleased to answer any questions you may have.

Chairman HERGER. Ms. Hill, you are now recognized for 5 minutes.

STATEMENT OF FRANCES R. HILL, J.D., Ph.D., PROFESSOR, UNIVERSITY OF MIAMI SCHOOL OF LAW, CORAL GABLES, FLORIDA

Ms. HILL. Thank you, Mr. Chairman, Mr. Chairman, and Ranking Member Lewis.

I am a tax lawyer, and as a tax lawyer, we live in a world of uncertainty at every turn. Corporate tax consolidated returns. Tax turns on the facts and circumstances of each particular case. And that phrase resonates through all the regulations and all the guidance we have.

What I was asked to do today is talk about 501(c)(4) organizations from the perspective of a student of exempt organizations, and that is what I propose to do. I want to note a couple of developments.

The exempt sector as a whole, all types of exempt organizations, 501(c)(3) public charities, 501(c)(6) business leagues, all have grown enormously over time since the 1950s. They have grown in size, they have grown in scale, they have grown in scope. They all conduct now a broad range of activities that perhaps was not contemplated fully when the law was written. On the other hand, this is part of the dynamic and dynamic vibrancy of the sector.

Certainly exempt organizations have become complex structures of multiple types of exempt entities, taxable entities, joint ventures, 527 political organizations of at least two types. But no one has thought that that was a necessarily alarming thing.

Schedule R of the new form 990 is going to teach us all a very great deal about complex structures because it is going to allow for the orderly reporting of information that has never been available before to scholars like me or, indeed, to many policymakers.

The central issue in complex structures is not whether they are big or not. Some of them are really, really big. I come from the world of universities, and we are very big. Most universities are, in fact, bigger than mine. Harvard University or Yale University are enormous. They have many resources, and certainly Harvard has some 100 affiliated entities in the larger Harvard structure. Hospitals tend to be very large and also to have multiple structures. Schedule R recognizes this modern development and the need for information about them.

I just want to say a few things about the complex structures. Overlapping boards are not, themselves, a problem. They don't lead to the attribution of one entity's activities to other entities.

Sharing of staff, if it is properly documented and paid for, is not a problem. The problem is if one organization controls the daily operation of another.

I want to talk a bit about royalty income. Yes, there is uncertainty about what is a royalty, but generally we know what a royalty is. It is a payment pursuant to the licensing of a right in generally intangible property for a defined use, and the IRS and the courts have, for UBIT purposes, the unrelated business income tax, focused on the issue.

Is it this kind of payment for the use of this right in intangible property, or is it for the provision of services? If it is for the provision of services, it is taxable. And there have been a variety of cases, but not a dividing line or two lines of cases, cases that reached different results about the facts and circumstances.

501(c)(4) organizations also engage in a great deal of lobbying, and this is—has become so pervasive. But the IRS over time decided lobbying was, in fact, an exempt purpose of 501(c)(4) organizations.

This is, I regret to note, I think an unfortunate but long-term development. We have now seen organizations that are heavily engaged in pursuing their rights under Citizens United under the First Amendment as interpreted by our Supreme Court to make independent expenditures from their general treasury funds. They can show that they satisfied 501(c)(4) solely by showing that their lobbying activities exceed their independent expenditures.

It is possible that this new form that is emerging may simply be a tax-exempt lobby shop with this defined First Amendment right, and I am not referring to specific organizations, I am referring to the possibility of the new legal form.

I have written in my testimony a discussion brief, but a longer one in the book that I have done on tax-exempt organizations, on Section 4958, which the IRS has spent a great deal of time and resources learning to administer.

Chairman HERGER. Your time has expired. Could you maybe conclude quickly and submit for the record your testimony?

Ms. HILL. Thank you, Mr. Chairman. I will wrap this up.

Chairman HERGER. Okay. Thank you very much.

[The prepared statement of Ms. Hill follows:]

TESTIMONY IS EMBARGOED UNTIL FRIDAY APRIL 1, 2011 AT 9:00 AM

Structure and Activities of Section 501(c)(4) Organizations

Testimony Prepared for
Subcommittee on Oversight and Subcommittee on Health
Committee on Ways and Means of the United States House of Representatives
April 1, 2011

Frances R. Hill
Professor of Law
University of Miami School of Law
Coral Gables, Florida

Thank you for the opportunity to present this testimony. The comments presented are my personal views and do not represent the views, if any, of the University of Miami or the University of Miami School of Law.

The exempt sector is a vibrant, diverse, dynamic and rapidly expanding part of our contemporary social, cultural, economic, and political life. It consists of multiple types of entities that differ markedly in the scope of their activities, the structures through which they operate, and the resources available to them. I have been asked to discuss the contemporary structure and activities of section 501(c)(4) organizations from the perspective of a student of tax exempt organizations.

I. Exempt Purposes and Activities of Section 501(c)(4) Organizations

Section 501(c)(4) provides that "[c]ivic leagues are organizations not organized for profit but operated exclusively for the promotion of social welfare."[1] Treas. Reg. 1.501(c)(4)-1(a)(2)(i) provides that "[a]n organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community." The same regulation describes qualifying section 501(c)(4) organizations as "operated primarily for the purpose of bringing about civic betterments and social improvements." Concepts like social welfare or promotion of the common good and general welfare are, of course, very expansive terms that do not readily suggest precise delineation.[2]

Section 501(c)(4) organizations were historically differentiated from section 501(c)(3) public charities by how they promoted social welfare and civic betterment. Section 501(c)(4) organizations operated through self-help, which meant that the people who participated in the organization to improve their communities through collective action could not and did not want to exclude others in the community from enjoying the results of their work. In short, section 501(c)(4) organizations were defined by collective action with the potential for "free riding" by those in the community who had made no contribution to the civic betterment that everyone then enjoyed. Of course, section 501(c)(4) organization were not required to provide a benefit that

[1] Section 501(c)(4) also provides for the exempt of "local associations of employees."

[2] The Internal Revenue Service recognized the diffuse nature of the organizations that are found under section 501(c)(4), stating in a nonprecedential comment on these organizations that "section 501(c)(4) remains in some degree a catch-all for presumptively beneficial nonprofit organizations that resist classification under the other exempting provisions of the Code. Unfortunately, this condition exists because 'social welfare' is inherently an abstruse concept that continues to defy precise definition." Internal Revenue Service Exempt Organization Continuing Professional Education Technical Instruction Program for 1981, Chapter G, Social Welfare: What Does It Mean? How Much Private Benefit Is Permissible? (available online at 94 TNT 30-22).

entire communities would in fact share directly, but they could not expect to satisfy the requirements for exempt status if they deliberately excluded non-members or free riders.

These principles can be seen most clearly in the case of organizations that provide a tangible benefit so that access can be determined unambiguously. For example, an organization that provided free bus service to any member of the community during rush hour qualified for exemption as a section 501(c)(4) organization,[3] but an organization that provided bus service primarily to its own members did not qualify.[4] The same results applied to organizations that provided a television antenna, with the organization that made the antenna available to the entire community qualifying for exemption as a section 501(c)(4) organization,[5] while the organization that limited access to the antenna to its own members did not qualify.[6]

The Tax Court took a different approach in the case of an organization that provided a recreational facility for the women employees of one corporation.[7] The facility served thousands of women employees of the corporation, which the Tax Court held constituted a community benefit. The Service agreed that "there is no requirement that a section 501(c)(4) organization provide equal benefits to every member of the community," but it took the position that the facility in question served only a private group and not the general welfare of the community.[8]

Little contemporary attention has been devoted to this issue, in part because the activities of section 501(c)(4) organizations have become less focused on providing tangible benefits and more focused on advocacy activities addressed to large numbers of people.

II. Section 501(c)(4) Organizations as Complex Structures: Principles of Affiliation and Attribution

Section 501(c)(4) organizations come in a wide range of sizes. They engage in multiple activities. They now frequently consist of complex structures of section 501(c)(4) organizations, one or more section 501(c)(3) organizations, one or more section 527 organizations, and taxable entities. One or more components of a complex structure that includes a section 501(c)(4) organization may be part of a joint venture with one or more taxable entities. Such structures are now common among many forms of exempt entities, including notably section 501(c)(3) organizations and section 501(c)(6) business leagues. The pervasive presence of complex structures explains the inclusion of new Schedule R in the revised Form 990, the annual information return filed by exempt entities. Schedule R is designed to permit exempt entities of all types to report in detail the existence of related entities and the activities that they undertake.

Schedule R does not in any way suggest that complex structures are novel or that they raise new concerns. Complex structures have been used to shield components of an exempt

---

[3] Rev. Rul. 78-69, 1978-1 C.B. 156.
[4] Rev. Rul. 55-311, 1955-1 C.B. 72.
[5] Rev. Rul. 62-167, 1962-2 C.B. 142.
[6] Rev. Rul. 54-394, 1954-2 C.B. 131.
[7] *Eden Farm v. United States*, 389 F. Supp. 858 (W.D. PA, 1975).
[8] Rev. Rul. 80-205, 1980-2 C.B. 184. *See also* Gen. Couns. Mem. 37675 (Sept. 15, 1978).

entity from liability that may arise in one component. A common example is the separate incorporation of medical schools in section 501(c)(3) universities. Complex structures have also been used to rationalize management of various types of activity and permit hiring of personnel with the skills necessary to operate each component of the complex structure efficiently and effectively.

Courts have considered a number of cases that have involved complex structures. Some of these cases involve issues arising from the complex structure and the terms of its operation. Others involve issues that do not implicate the complex structure. In both fact patterns, courts have not questioned the complex structures even though they may address elements of their operation. In *Regan v. Taxation with Representation,* 461 U.S. 540 (1983) the Court considered a structure of a section 501(c)(4) organization and a related section 501(c)(3) organization without in any way suggesting that such a structure in itself would be impermissible or unusual. In *Austen v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990) the Court considered a section 501(c)(6) organization with a controlled section 527 political action committee and, again, did not suggest that this structure was novel or impermissible. When the Supreme Court struck down *Austen* in *Citizens United v. FEC,* 130 S. Ct. 876 (2010), it did so on grounds that did not indicate disapproval of the complex structure of the Michigan Chamber of Commerce.

The central operational issue in complex structures is to ensure that each entity conducts those activities consistent with its tax status and that the activities of one entity are not attributed to one or more other entities in the complex structure. Attribution can jeopardize the exempt status of the exempt entity to which the activity is attributed. Affiliation and even control will not trigger attribution if the separate identity of each entity is maintained.[9]

The separate identity principle is derived from *Moline Properties v. Commissioner,* 319 U.S. 436 (1943). The Court held that the separate identity of a corporation with a sole shareholder must be respected because it conducted activities consistent with the business purpose for which it had been organized and did not function as an agent of the sole shareholder or exist as a mere sham entity.

Both the courts and the Service have consistently applied the separate identity principle derived from *Moline Properties* to complex structures of exempt and taxable entities. In contrast to taxable entities where affiliation and control are determined by the ownership of stock or other equity interests, affiliation and control in the case of exempt entities is generally determined with reference to the authority to appoint directors.[10] The important point is, however, that affiliation or control does not determine attribution consistent with the separate identity principle.

Attribution is based on operational control. The reasoning is expressed in Gen. Couns. Mem. 39326, which states that

---

[9]For a more complete discussion of these principles and their application to complex structures that include exempt entities, *see* Frances R. Hill and Douglas M. Mancino, Taxation of Exempt Organizations, Chapter 27 (Warren, Gorham & Lamont, 2002 with a cumulative supplement updated twice each year).

[10]*See*, e.g., Gen. Couns. Mem. 39326 (Jan. 17, 1985); Gen. Couns. Mem. 39598 (Dec. 8, 1986).

> To disregard the corporate entity requires a finding that the corporation or transaction involved was a sham or fraud without any valid business purpose or a finding of a true agency or trust relationship between the entities. Thus, the activities of a separately incorporated subsidiary cannot ordinarily be attributed to its parent organization unless the facts provide clear and convincing evidence that the subsidiary is in reality an arm, agent, or integral part of the parent. This is an evidentiary burden that is not easily overcome.

Factors that may support attribution include overlapping boards, shared officers, shared employees, and shared facilities and services. No one indicium is necessarily determinative. The Service has provided no generally applicable guidance on weighing these factors. Rather, attribution determinations are based on the facts and circumstances of each particular case.

Overlapping boards do not in themselves lead to attribution. If the common directors constitute less than a majority of the subsidiary's board, this factor will not lend significant support for attribution.[11] The Service accorded little significance to overlapping boards in a case where all of the subsidiary's directors "will probably, although not necessarily" also be members of the parent's board when there was no evidence of operational control and where the facts emphasized the subsidiary's operational independence.[12] Even in a case where all of the subsidiary's directors were also directors or staff employees of the parent the Service determined, based on the facts of that particular case, that the subsidiary's board was "independent and self-governing."[13] Although the composition of the subsidiary's board had triggered heightened scrutiny, the Service observed that "the considerable evidentiary burden required to show that the taxable subsidiary is in reality an instrumentality of the parent is not easily overcome."

Overlap of officers is generally more likely to trigger attribution than is overlap of directors. The Service attributed the activities of a taxable subsidiary in which an exempt entity owned 50 percent of the stock in a case of complete overlap of both officers and directors.[14] Attribution was based on the implication of this overlap for day-to-day operational control. In another case the Service ruled that some overlap of officers will not support attribution if the majority of the subsidiary's board consists of outside directors.[15]

Sharing staff employees, as well as sharing facilities and services, will not generally raise issues of attribution because these patterns of sharing do not generally implicate operational control.[16] Each party to such arrangements should pay fair market value for the services based on hours employees work for each party or usage of space or services by each party.

In a case where a section 501(c)(4) organization or a section 501(c)(6) organization controls a section 501(c)(3) organization, the challenge is to ensure that the section 501(c)(3) organization conducts its own exempt activities and that it does not transfer the contributions,

---

[11] *See,* PLR 9119060 (Feb. 13, 1991); PLR 9108016 (Nov. 21, 1990); PLR 8821044 (Feb. 26, 1988.
[12] PLR 8805059 (Nov. 13, 1987).
[13] TAM 8706012 (Oct. 13, 1986).
[14] PLR 8606056 (Nov. 14, 1985).
[15] PLR 8352091 (Sept. 30, 1983).
[16] PLR 9438041 (June 20, 1991)

which are deductible under section 170, to the parent or to any other component of the complex structure.[17] A section 501(c)(3) organization may transfer funds to organizations that are not exempt under section 501(c)(3) only if it has entered into an agreement that requires that the recipient use the funds for activities that the section 501(c)(3) organization could have conducted directly and the section 501(c)(3) organization requires evidence that the funds are in fact used for such purposes.

III. Economic Activities of Section 501(c)(4) Organizations Section 501(c)(4) organizations, like all other exempt entities, must operate primarily for an exempt purpose.[18] The applicable regulations provide that a section 501(c)(4) may not be "organized or operated for profit."[19] The regulations also provide that "[n]or is an organization operated primarily for the promotion of social welfare if its primary activity...is carrying on a business with the general public in a manner similar to organizations which are operated for profit."[20]

The language in the regulations was promulgated before the unrelated business income tax ("UBIT") provisions were made applicable to section 501(c)(4) organizations. Under the UBIT provisions of section 511-14, commercial activities will be subject to UBIT only if they are a trade or business that is regularly carried on and not substantially related to the organization's exempt purpose. Under the UBIT provisions, investment income is not income from a trade or business and is, in consequence, not subject to UBIT. The UBIT provisions provided express statutory exceptions for several types of income, including dividends, interest, and royalties.[21]

The UBIT provisions raise a number of questions relating to their intended meaning and their application in particular situations. These questions have been and continue to be raised with respect to all types of exempt entities, including section 501(c)(4) organizations. Among these unresolved questions are the methodology to be used for determining whether an organization is operated primarily for an exempt purpose and how the extent of business activity is to be determined. Congress has considered many of these issues in the past and has chosen not to amend the statute.

Royalty income, which is excluded from unrelated business income under section 512(b)(2), has raised a number of questions, many of which have been litigated, by section 501(c)(3) universities as well as certain section 501(c)(4) organizations. A royalty is a payment made pursuant to a licensing agreement under which another party, whether taxable or tax exempt, may use certain intangible property rights of the other party in return for the royalty payment. The intangible property may range from the name or logo or mascot of a university to intellectual property developed by university researchers. Section 501(c)(4) organizations earn royalty income from licenses of their names or logos or any other intellectual property they may own.

---

[17]For an application of the separate identity principle to a section 501(c)(3) subsidiary controlled by a taxable entity, *see Bob Jones Museum & Gallery v. Commissioner*, 71 TCM 3120 (1996).

[18]Treas. Reg. § 1.501(c)(4)-1(a)(1)(ii) and Treas. Reg. § 1.501(c)(4)-1(a)(2)(i).

[19]Treas. Reg. § 1.501(c)(4)-1(a)(1)(i).

[20]Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

[21]IRC § 512(b).

While royalty income is excluded from UBIT under section 512(b)(2), the issue of determining what income is royalty income and what income might be from the provision of services related to the use of the intangible property that is the subject of the licensing agreement remains difficult. In Revenue Ruling 81-178, 1981-2 C.B. 135 the Service took the position that an exempt organization may perform certain services with respect to its licensed property rights without jeopardizing the treatment of the income as a royalty within the meaning of section 512(b)(2). The licensing agreements permitted various taxable business entities to use the exempt organization's trademarks, trade names, and other intangible property in the sale or promotion of certain merchandise or services. Under the licensing agreements the exempt organization retained the right to approve the quality or style of the licensed products or services sold by the taxable entities and required that the taxable entities not engage in activities that would adversely affect the reputation of the exempt entity. The Service ruled that "[t]he mere retention of quality control rights by a licensor in a licensing agreement does not cause payments to the licensor under the agreements to lose their characterization as royalties."

The courts have decided cases based on a similar analysis. Several of these cases have involved services performed by an exempt entity in connection with rental of its mailing lists of members or contributors. The leading case is *Sierra Club v. Commissioner*, 86 F. 3d 153 (9th Cir. 1996). In this case the Ninth Circuit rejected the Service's argument that the provision of services tainted the income received and was inconsistent with treating that income as a royalty. The same issue arose in the case of an affinity credit card program in which a university alumni association updated its mailing list and also engaged in various activities that promoted the affinity credit card program.[22] The court found that, on the record before it, the alumni association received royalty payments for the use of the university's name, seal, colors and logos and not payment for services.

IV. Advocacy Activities of Section 501(c)(4) Organizations

Section 501(c)(4) does not contain express language akin to that in section 501(c)(3) prohibiting the use of the organization's resources to support or oppose clearly identified candidates for public office. Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) does, however, provided that "[t]he promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf or in opposition to any candidate for public office." This is not an absolute prohibition because a section 501(c)(4) organization will be treated as operating exclusively for exempt social welfare purposes if it operates primarily for such purposes. Treas. Reg. § 1.501(c)(4)-1(a)(2)(i) states that "[a]n organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community."

Even before the Supreme Court's recent decision in *Citizens United,* certain section 501(c)(4) organizations were permitted to use their general treasury funds to make independent expenditures that expressly advocated the election or defeat of clearly identified candidates for public office pursuant to the Supreme Court's decision in *Massachusetts Citizens for Life,* 479

[22] *Oregon State University Alumni Association v. Commissioner,* 193 F. 3d 1098 (9th Cir. 1999). The Tax Court had reached the same result based on a similar analysis in *Mississippi State University Alumni v. Commissioner,* 74 TCM 458 (1997).

U.S. 238 (1986)(*"MCFL")*. The so-call MCFL exception applied to organizations that accepted no corporate contributions and that made their advocacy activities so clear that prospective contributors could not be mistaken or confused about the likely use of their contributions. This judicial test was subsequently promulgated as a federal election law regulation applicable solely to qualifying section 501(c)(4) organizations.[23] This provision and the judicial precedent on which it rests have been largely superseded by the Court's decision in *Citizens United.* Although Citizens United is a section 501(c)(4) organization, the Court held that all organizations have a right under the First Amendment to use their general treasury funds for independent expenditures that expressly advocate the election or defeat of a clearly identified candidate for public office. Section 501(c)(6) business leagues are covered by this decision, as are labor organizations and taxable entities. It is unclear whether section 501(c)(3) public charities or private foundations might also be able to use their general treasury funds for independent expenditures in political campaigns.

Section 501(c)(4) organizations have come to claim lobbying as their sole exempt purpose. The path to this result is far from clear and the result is not without controversy. Section 501(c)(4) itself is silent on lobbying, just as it is silent on campaign activity. Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) provides that a section 501(c)(4) organization may be an "action organization" within the meaning of Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) or (iv) if it satisfies the requirements for exemption under section 501(c)(4). The import of this regulatory provision is ambiguous. It would appear to relate to the change in the law in 1976 prohibiting an organization that failed to qualify as a public charity under section 501(c)(3) or to maintain that status because it was an action organization from subsequently qualifying as a section 501(c)(4) organization.[24] Under this reading, the provision is a transition rule, not a fundamental principle.

The Service has, however, taken the position that lobbying is not simply a permissible activity but that it is an exempt activity, a type of activity that is properly treated as a social welfare activity.[25] This means that a section 501(c)(4) organization that engages in campaign activity, including making independent expenditures consistent with *Citizens United*, can satisfy the requirement that it engage primarily in social welfare activities by engaging primarily in lobbying, including both direct lobbying and grassroots lobbying. Because section 501(c)(4) organizations, like section 501(c)(6) organizations, do not have to disclose their contributors, they have become newly popular vehicles for collecting contributions for independent expenditures as well as for lobbying.

V. Compensation in Section 501(c)(4) Organizations

Excess compensation is a form of private benefit that is inconsistent with the requirement that section 501(c)(4) organization operate primarily to enhance social welfare and to provide a benefit to the community. These principles are the basis for applying section 4958 to section 501(c)(4) organizations as well as to section 501(c)(3) organizations, which have their own public benefit requirement.

---

[23] 11 C.F.R. § 114.10.

[24] This change was made to protect the integrity of the requirement under section 501(c)(3) that, upon dissolution, all of the organization's remaining assets be distributed to another section 501(c)(3) organization.

[25] This position is derived from Rev. Rul. 61-177, 1961-2 C.B. 117 and expressed more directly in Rev. Rul. 71-530, 1971-2 C.B. 237.

If an organization engages in an excess benefit transaction, the sanctions fall on the disqualified person who benefits and the organization manager who approves or facilitates the excess benefit transaction, not on the organization itself.

Section 4958 provides that compensation is to be determined based on market comparables. The issue of what organizations provide appropriate market comparables is based on all the facts and circumstances of each case. Taxable entities can serve as market comparables in determining compensation for persons employed by exempt organizations.[26] Compensation decisions must be supported by appropriate data.

Section 4958 provides that compensation determinations for exempt organization executives should be made by the board of directors based on the recommendations of a compensation committee composed of independent directors.

The purpose of section 4958 is not to authorize the Service to micromanage compensation decisions but to ensure that section 501(c)(3) and section 501(c)(4) organizations use their resources to hire people with appropriate skills while not diverting their resources from their exempt mission. Reasonable variation in compensation levels is consistent with operating for an exempt purpose.

* * * *

[26] Treas. Reg. § 53.4968-6(c)(2)(i).

Chairman HERGER. Mr. Josephson, I want to thank you for your testimony and for sharing your expertise with us.

One of the many facts I find troubling in the report released by the committee is the overlap between the boards of AARP's for-profit and not-for-profit affiliates.

Do you think that it is appropriate for seven members of AARP, Inc.'s, board of directors, a 501(c)(4) that establishes AARP's advocacy positions, to also comprise the entire board of AARP's for-profit side, the AARP insurance plan, a grantor trust that processed $6.8 billion in insurance premiums in 2009?

Mr. JOSEPHSON. Interlocking directors always raise concerns about the duties of loyalty, diligence, because there are inherent conflicts of interest.

As I said in my statement, were I in charge of an investigation of this organization, I would look very carefully at the composition of each of its board and officers. I would look at the minutes of their meetings. I would try to determine how frequently they are attended.

Chairman HERGER. Mr. Josephson, could you move microphone a little closer, please?

Thank you.

Mr. JOSEPHSON. Thank you. Is that better?

Chairman HERGER. Yes.

Mr. JOSEPHSON. I would try to determine how frequently the committee meets, who sets the agenda, is there independent leadership to the board and committee meetings? There are a whole host of good governance issues that are equally applicable to for-profit and nonprofit organizations that cry out for inquiry into this complex situation.

Chairman HERGER. Do you think it is appropriate for an additional two AARP, Inc.'s, board of director members to serve on the for-profit AARP Services, which negotiates the lucrative contract with insurance companies?

Mr. JOSEPHSON. I can't speak directly to that issue, Mr. Chairman. I can say, for example, if my former colleague Tom Conway, the head of the Bureau of Consumer Protection, were sitting here with me, we would both be looking very carefully at the procedures that the for-profit board followed in ensuring competition, and ensuring consumer protection, and ensuring value for money.

I do not understand on the present record the basis for the choice of the insurers of each product that AARP makes.

Chairman HERGER. I share your concerns.

In your testimony you stated that the royalty payments AARP receives might be more properly characterized as commissions. As you know, AARP's royalty payments are not subject to tax. However, if these payments were, instead, considered to be commissions, would they be subject to taxation?

Mr. JOSEPHSON. Yes, sir, but that is a factual inquiry that needs to be made. And if I may say so, sir, the Congress, when it enacted 512(b)(2), I think did practitioners and itself a disservice in not trying clearly to define royalty. As a result, both the courts and the IRS have struggled with trying to make sense out of that concept.

Chairman HERGER. If the $657 million in royalty payments AARP received in 2009, largely from insurance companies, were then taxed as unrelated business income, what sort of tax liability would AARP be subject to?

Mr. JOSEPHSON. I can't speak to that because I don't know what the state of the proper deductions would be. That it would be subject to unrelated business income tax is quite clear, but what the ultimate tax burden would be, one would have to know a great deal more about the organization's finances and expenditures.

Chairman HERGER. Thank you.

With that, I recognize the gentleman from Georgia Mr. Lewis for 5 minutes.

Mr. LEWIS. Thank you very much, Mr. Chairman.

I want to thank the two of you for being here today and for being so patient.

Dr. Hill, the Republican report points out that there is an overlap of the board for AARP and the subsidiary. Have you seen this in large nonprofit organizations, in other nonprofits?

Ms. HILL. I have, and so has the IRS. And so in my written testimony I went to some effort to talk about board overlap.

When there is an overlap of less than a majority, the IRS has never been interested in it and doesn't think this leads for the purposes of determining whether the activities of one organization should be attributed to another. And that is important to tax lawyers, which is the role I am testifying in today, because that can jeopardize the exempt status of the organization to which the activities are attributed.

The question of a total overlap of boards, of course, raises questions for inquiry, and the IRS has looked at situations of overlap or potential 100 percent overlap and found in the facts and circumstances of the case that is available to us, in the form of a private letter ruling, that in that one case, it did not lead to attribution.

And so the idea of the overlap of boards can, in fact, be the way that the whole core mission of an organization is built into all the other entities. But these inquiries are always factual inquiries.

If the question is is it such a red flag that whenever we see any overlap, we must immediately investigate, the IRS has not taken that position, and I personally do not see that unless we find something very strange and very unexpected through our Schedule R information, that that would be the best use of the IRS' scarce resources.

Mr. LEWIS. Well, Professor Hill, I know you are very familiar with the great and distinguished law firm Caplin & Drysdale.

Ms. HILL. I am.

Mr. LEWIS. One of its lawyers publicly stated that there is not anything in this report that really adds up to the loss of tax-exempt status.

Do you agree with this?

Ms. HILL. Of the six pages of the report, pages 21 to 26 that touch in some way on tax issues, I saw nothing in that section of the report that would cause me to think that revocation of exemption is likely, probable or warranted, not from what I saw in those six pages of the report.

Mr. LEWIS. Now, the AARP sponsors NASCAR drivers, sponsors a NASCAR driver, to promote a campaign to fight hunger. Does that sound like a reason that an organization should have its tax-exempt status revoked?

Ms. HILL. It doesn't to me.

If I had been their lawyer, I would have asked, you know—and I am sure their lawyer did—for a thorough examination of why they are doing it and how it relates to their mission.

But I have always thought that there is some latitude to organizations to promoting their mission, and making people aware of a mission, and trying to generate donations.

I am not a follower of NASCAR. I am sure I am not fully aware of the implications of supporting a NASCAR driver in any particular——

Mr. LEWIS. You are not alone. You are not alone.

Ms. HILL. So I am perhaps not the best person to ask about the NASCAR driver, but they, I am certain, would have some reason in their minutes and in their deliberations. Any organization would.

Mr. LEWIS. Thank you very much for your testimony and for your response.

Ms. HILL. Thank you.

Mr. LEWIS. I yield back.

Chairman HERGER. The gentleman yields back.

The gentleman from Louisiana Dr. Boustany is recognized for 5 minutes.

Chairman BOUSTANY. Thank you, Mr. Chairman.

Let me start, Mr. Josephson, with you. You stated in your written testimony that I read that AARP's organizational structure is unprecedented in your years of experience, and you specifically mentioned how uncommon it is for a tax-exempt organization to have such a large number of affiliates, some for-profit and some nonprofit.

What sort of red flags would be raised by such a structure?

Mr. JOSEPHSON. I have never seen anything in the nonprofit area as complex as AARP's structure. And as I said in my testimony, I would have to examine its justification for each of these separate organizations were I in charge of any investigation. And I would also have to examine the nature of the control that AARP exercises over the organizations that are its affiliates. I agree with my colleague that the existence of an interlocking situation is not necessarily a bad thing, but it is also necessarily something that needs to be looked at.

The Internal Revenue Service, IRS, Code is not only replete with references not only to direct control, but to indirect control, and indirect control may well be an issue that goes beyond the actual numerical composition of each governing body.

Chairman BOUSTANY. Thank you, sir.

I asked questions to the first panel about the royalty income, and is it royalty versus unrelated business income that should be taxable.

What kind of information—and clearly the report that we have issued leaves a lot of questions unanswered in this regard, but what type of information would you be interested in reviewing to understand how the royalty income is controlled and allocated and whether——

Mr. JOSEPHSON. I would want to review each contract in detail with respect to any royalty payments.

Chairman BOUSTANY. Thank you, sir. Ms. Hill, is that your opinion as well?

Ms. HILL. Well, every lawyer would be quiet and refuse to give an opinion without reading the documents. That is what we do.

Chairman BOUSTANY. Yes.

Ms. HILL. We read things, and we are careful. And so we would read the documents, but we would also want to know if the documents were being implemented consistent with the—

Chairman BOUSTANY. So we need the documents.

Ms. HILL. And so I just want to reiterate that the core issue for UBIT is whether or not this is a payment for the use of these intangibles. I understand it.

Well, take the university context. We have mascots, we have all that sort of stuff. And we put it on T-shirts and everything that we can possibly sell, and we receive royalties for selling it.

And so the question then is are we promoting those sales through services that are improper? And my written testimony addresses how the courts have said there can be services to protect our good name, our universities' good names when we put a mascot on a T-shirt so that nothing disgusting appears with our mascot.

Chairman BOUSTANY. Sure.

Ms. HILL. So that is the state of the law. It is an administrable standard——

Chairman BOUSTANY. Right. Let me understand that. Yes. Let me go to a slightly different line of questioning for you, Professor Hill.

In your testimony you indicate that a 501(c)(4) should work for the common good and promote social welfare for a community, and you state that a 501(c)(4) organization, and I quote, "could not expect to satisfy the requirements for tax-exempt status if they deliberately excluded nonmembers or free riders."

So if a 501(c)(4) limited access to a program to only members, which is what we see with the Medigap plan that AARP has, because in order to enroll you have to be a member, could that lead to the loss of status, a tax-exempt status?

Ms. HILL. Well, it is going to depend. Here, in the cases I cite about the community television antenna and the community bus service——

Chairman BOUSTANY. Right.

Ms. HILL [continuing]. Those were small communities and fairly small programs. We get to the Tax Court with the Eden Hall case, one corporation, the recreational facility for the female members, and there were apparent several thousand or at least 1,000 female employees of this one corporation. The IRS said, too few. The Tax Court said, enough. And, therefore, Eden Hall kept its exempt status.

And so the question of number and expanse enters into this. This is what I mean by facts and circumstances. It is what makes tax law so interesting to do and so challenging to do. But those are the precedents that are out there.

And so it is a totality of facts and circumstances. So a very large organization with a very large program might be, under the Eden Hall precedent, thought to qualify; whereas if it were much, much smaller, like the television antenna, different outcomes.

Chairman BOUSTANY. So what you are suggesting to me is we really need more information.

Ms. HILL. What I am suggesting is the tax base, some facts and circumstances.

Chairman HERGER. The gentleman's time is expired.

The gentleman from New York Mr. Rangel is recognized for 5 minutes.

Mr. RANGEL. Thank you.

Let me thank our witnesses. You really have impressive backgrounds. Professor Hill, Denver, Fulbright, Harvard, University of Texas. Thank you for taking time to share your views with us.

And, of course, my fellow New Yorker. It is always good to have someone from New York testify, and you have been in charge of charity bureau with the attorney general's office in New York, Peace Corps. Bard College is one of my favorites. I am glad to see you are associated with that, small but essential; and George Washington University. And you went out of your way, counselor, to explain that you had no particular knowledge of health care-providing institutions. I assume that you didn't think that was necessary in order to testify about AARP?

Mr. JOSEPHSON. I did not think it was necessary in order to express the opinions I was asked to express with respect to the report.

Were, hypothetically, I in charge of any further investigation, this is a subject I would have to become an expert in and I would become an expert in.

Mr. RANGEL. But you are not familiar with what AARP really does. You were given a hypothetical, and you gave your professional opinion?

Mr. JOSEPHSON. I take the report as if it were a hypothetical.

Mr. RANGEL. Okay. You know, it is the practice down here that the Republicans and the Democrats select different witnesses, support their case, and, Professor, you are the Democratic selection. Did you know, counselor, that you are the so-called Republican witness?

Mr. JOSEPHSON. Well, I do know that I was contacted by the current majority staff, but I am sure the current majority staff also knows that I am the Democrat, a member of no organized political party.

Mr. RANGEL. Okay. So based on the fact that you had no knowledge of AARP—and you are retired now, right?

Mr. JOSEPHSON. Well, you might say so. I seem to be busier than ever.

Mr. RANGEL. Well, good for you. That is encouragement for me.

Mr. JOSEPHSON. We are virtually the same age, Mr. Rangel.

Mr. RANGEL. Oh, well, anyway, that is good for me to know people can be as active and intellectual as you.

So let me ask you this. You referred to the majority party when you talked about the report.

Mr. JOSEPHSON. I believe it is the majority party in this body.

Mr. RANGEL. Do you have a copy of the report anywhere near you?

Mr. JOSEPHSON. I do.

Mr. RANGEL. Is there anything on that report that would allow you to believe that there is a party affiliation, Republican or Democrat, or majority or minority?

Mr. JOSEPHSON. Yes, there is, sir.

Mr. RANGEL. What is that?

Mr. JOSEPHSON. It identifies Representative Herger and Representative Reichert as Republicans.

Mr. RANGEL. But that doesn't mean that the report is Republican.

Mr. JOSEPHSON. That is correct.

Mr. RANGEL. So you don't know whether—do you see any congressional seal on that?

Mr. JOSEPHSON. I did not.

Mr. RANGEL. Did you see anything that this report was prepared by the Ways and Means Committee?

Mr. JOSEPHSON. I did not, nor do I see a committee document number.

Mr. RANGEL. So everything that you have testified to is based on the hypothetical?

Mr. JOSEPHSON. That is correct.

Mr. RANGEL. And two Members of Congress who happened to be Republican gave it to you?

Mr. JOSEPHSON. Well actually the staff gave it to me.

Mr. RANGEL. And you would assume they did it on behalf of the two Republican members?

Mr. JOSEPHSON. I do assume that.

Mr. RANGEL. So, if, indeed, the information, by some strange chance, is not accurate, and you based your testimony on this hypothetical, you would have to revisit everything that you testified to?

Mr. JOSEPHSON. I would revisit each issue with respect to which the information might turn out to be inaccurate.

Mr. RANGEL. I am sorry?

Mr. JOSEPHSON. I would revisit each issue with respect to which the information turned out to be inaccurate.

Mr. RANGEL. But as you testified today, the only evidence that it is accurate is your confidence in the staffs of these two Members. In other words, there is nothing to indicate that it is official, that it is congressional; that if, indeed, you found that the hypothetical had problems, then your testimony based on the hypothetical would have to be different?

Mr. JOSEPHSON. Correct.

Mr. RANGEL. I have no further questions.

Chairman HERGER. The gentleman yields back his time.

I might mention there are 243 footnotes which are documented, which anyone can look and verify or at least see where the information has come from.

With that, I recognize for 5 minutes the gentleman from Washington Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman.

Well, I really appreciate the way you answer your questions, Mr. Josephson.

Mr. JOSEPHSON. I have been around for a long time.

Mr. REICHERT. Well, it is—as you probably heard while you were sitting here earlier today, I spent 33 years in law enforcement, so I am one of those that have been on the witness stand before and raised my right hand. And I have given straight answers to the questions that have been asked, and also, of course, have had the opportunity to interview and in some cases interrogate suspects who sometimes are not quite so forthcoming in their answers. But I appreciate your straightforwardness and your answers to the question. I think it makes the process much easier and much more credible when we have witnesses that are cooperative and ready to supply those answers to us.

Mr. JOSEPHSON. Thank you, sir.

Mr. REICHERT. So I think you and I do have maybe a little bit of something in common. We are both, I am guessing, investigators at heart, and so I would just ask this question first.

So you stated in the—stated that AARP's organizational structure merits further investigation, and that an extensive document production from AARP maybe could be provided to us.

I am interested in what types of documents should this committee request from AARP so that we can better understand the relationship between AARP's numerous for-profit and tax-exempt affiliates?

Mr. JOSEPHSON. That is a long list. I would start with the composition of the governing bodies of each of the affiliates. I would want to know to what extent they also operated through subcommittees, just as I would want to know whether AARP itself operates through subcommittees. I would want to see, let us say, 5 years' worth of minutes of each of the governing bodies and its subcommittees. I would be very interested in flows of cash among the affiliates. I would be very interested in the internal controls that AARP applies and its auditor's opinion as to the adequacy of those internal controls. I would be very interested in looking at not AARP's consolidated 990, but in the audit process. Each auditor, of course, audits separately the books of each affiliate and then combines them for purposes of consolidated reporting. I would be very interested in looking at the elements of each consolidated financial statement, consolidated 990. That is a brief summary.

Mr. REICHERT. And, hopefully, if I have made a request today, could you give me the rest of the list that we might be interested in?

Mr. JOSEPHSON. I could try.

Mr. REICHERT. I would appreciate that very much, thank you.

Mr. REICHERT. So have you had time at all to look through the report that you have before you? I am sure you have had some time to look at it.

Mr. JOSEPHSON. Not much.

Mr. REICHERT. Not much.

Mr. JOSEPHSON. The committee called on Monday. I read it Tuesday. I prepared my statement Tuesday night and Wednesday.

Mr. REICHERT. So from what you have heard today and maybe the report that you have had some time to look at, even though briefly, would you say, would you agree, that there is some interest there that should be followed up?

Mr. JOSEPHSON. I do agree with that.

Mr. REICHERT. There is something that we should at least have some answers to some questions that should be answered?

Mr. JOSEPHSON. I do agree with that.

Mr. REICHERT. Thank you, sir.

I am particularly interested in another aspect of AARP in their insurance plan, a massive grantor trust that processed more than $6.8 billion in insurance premiums in 2009 before kicking some of that money up to the tax-exempt AARP, Inc. Is this an area where we should seek more information?

Mr. JOSEPHSON. It is interesting that you ask that question. That was exactly the first question I asked the staff member who contacted me, and she was unable to provide me with any more information about that grantor trust. I am fascinated to know more about that grantor trust, why it was created, how it actually functions.

Mr. REICHERT. What do you think that might tell us?

Mr. JOSEPHSON. I don't know, but I am curious.

Mr. REICHERT. And why are you so curious, just from your——

Mr. JOSEPHSON. It is an unusual element. I have never seen in the context of profit or nonprofit affiliates a grantor trust playing such a key role.

Mr. REICHERT. Mr. Chairman, I yield back.

Chairman HERGER. The gentleman yields back.

The gentleman from Oregon Mr. Blumenauer is recognized for 5 minutes.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

I guess I would just posit for a moment that AARP does a whole range of activities that aren't a part of their foundation. I mean, this is the revenue stream that deals with people that I am working with on the Healthy Communities programs, with health policy; that this is part and parcel of what they do that is part of the revenue structure, which Mr. Josephson seemed to feel was so complex.

If I understood Professor Hill correctly, you mentioned Harvard University has over 100 affiliated entities. I wonder if either of you are familiar with the AAA program?

Mr. JOSEPHSON. I am not.

Ms. HILL. No, not specifically.

Mr. BLUMENAUER. Here we have a program that operates in about a dozen countries. It has an affiliate in, I think, every single State, and some large States are divided. There is an AAA of northern California and southern California. They are involved with roadside service. They are involved—they have programs that are involved with accommodations. They have a travel service. They sell insurance for cars, boats. And I think it is a fair assertion that to have all of those entities involved in all those lines of business, that it would not look substantially different than what is being waved around here for AAA.

Ms. Hill, would you agree?

Ms. HILL. I would just—yes, I would agree as a hypothetical matter. I would just like to reiterate how important it is for all of us, and possibly the committee might choose to do this, to look at the Schedule Rs going forward. These are the information returns filed, signed by the organization under penalty of perjury. This new Schedule R really is important in understanding complex structures. It would help provide baselines——

Mr. BLUMENAUER. Yes.

Ms. HILL [continuing]. To see what is unusual and what is not unusual better than any of us could with our own observations drawn from practice or scholarship.

But I have to say that just, even in teaching my exempt organizations class, I have drawn on the board structures that are more complex than what we saw in the report, because young lawyers have to know about those structures.

But the Schedule R is so helpful to an inquiry like this.

Mr. BLUMENAUER. Thank you, Professor Hill. I don't want to prolong this, but I think it would be useful for people who are raising some what I think are rather bizarre notions and having a conspiracy theory and so forth, just look at some other complex organizations.

I do a lot of work with AAA. They have advocacy programs for public safety. They are part of a group that we are working with to try and deal with how we actually finance infrastructure in this country. They have played an integral role in public policy in my State and nationally. They lobby, they get involved with politics, but, as I mentioned, well, they are involved with banking and loans. They offer insurance on autos, boats, homes, life, health, long-term care, RV, trip cancellation and trip delay.

With all due respect to wherever the majority is going with this, I do think, as I mentioned earlier, that there are some legitimate areas where there are people that crossed the line and need to be looked at. There are real questions about what happens in some universities, where you talk about skewing priorities, where the top 10 salaries are one football coach, thank you very much, and how much tax-exempt and business activities intermix.

These are all legitimate areas for inquiry, but to single out AARP for legitimate policy differences—and on balance I think the evidence suggests that they were better attuned, and that it wasn't anything wrong with being concerned about health care for children or for people with preexisting conditions and advocating their position—I think that is unfortunate.

I would suggest take a look at AAA and compare that to see if this is somehow bizarre, unwarranted or worthy of investigation.

Chairman HERGER. The gentleman's time has expired.

The gentlelady from Kansas Ms. Jenkins is recognized for 5 minutes.

Ms. JENKINS. Thank you, Mr. Chairman, and thank you two for joining us today.

Mr. Josephson, you referenced IRS enforcement and audit capabilities in the tax-exempt arena in your testimony. You also note that there is a lack of guidance in several areas related to tax-exempt organizations, especially involving 501(c)(4) organizations.

I have a series of questions for you. Do you think the lack of IRS oversight in this area is related to the lack of guidance? What type of changes at the IRS would improve this situation? And, finally, what additional guidance do they need to issue health—to ensure that tax-exempt organizations properly serve their missions?

Mr. JOSEPHSON. As my statement says, the IRS, in its work plan for the next year that it released in December, announced that it has decided to take a careful look at the whole question of 501(c)(4) organizations. This, in my some 50 years experience in the law, is the first time the IRS has ever announced that this area of exemption would be the subject of administrative scrutiny.

I can't say, frankly, that I am too hopeful of an immediate product. As I was saying at the end of my original 5 minutes, the Pension Protection Act asks the IRS to produce in a year a report on supporting organizations, which it hasn't produced. The Pension Protection Act asked it to produce a report on donor-advised funds. I haven't seen hide nor hair of that report.

And I am sympathetic to the IRS, because, as I say in my statement, it really—in the exempt organization area it has been starved of resources because the 4940 excise taxes, originally conceived as supporting oversight in that area, never was actually appropriated for that purpose. So I have to be skeptical.

Ms. JENKINS. Okay. I can appreciate that.

You also stated that the compensation and benefits paid by AARP and its affiliates are worthy of further legislative and regulatory attention. Do you think it is appropriate for AARP's CEO to have received $1.6 million in compensation in a single year? And additionally, is it appropriate for AARP's volunteer board to be holding multiday conferences at a resort described as a beacon of grandeur and refinement among vacation destinations in southern California and the world, a definitive example of what a luxury resort should be, and is also named as one of the top 10 resorts in the world today?

Mr. JOSEPHSON. During the 1972 political campaign, I was Sargent Shriver's campaign manager. We stayed at the Coronado one night in the course of the campaign. I can attest to the quality of the resources in the Coronado. I have never thought of spending the kind of money that would be required to return.

Ms. JENKINS. Thank you. I would yield back.

Chairman HERGER. The gentlelady yields back.

The gentleman Mr. Kind is recognized for 5 minutes.

Mr. KIND. Thank you, Mr. Chairman.

I want to thank our witnesses for being here and for your testimony today.

Professor Hill, let me first start with you. More and more organizations, it seems, are registering as (c)4s—we were just talking about that a moment ago—and they are doing primarily, if not exclusively, political activities now.

Do you think this is an area that is rife for more IRS and congressional inquiry in regards to the (c)4 status and what is going on there?

Ms. HILL. Yes, and I want to be clear about why. I do not at all question the First Amendment right to express themselves by making independent expenditures from organizational general treasury. This is what the Supreme Court decided. This is now a First Amendment right. The question is, is that a tax-exempt activity?

My problem is not with the advocacy. I think it is important to keep nonprofit, tax-exempt organizations in the advocacy mix and not to get it—it is so expensive to be an advocate that nonprofits of ordinary size cannot even afford to play in that arena. I do think it is important.

My technical problem, if I could just talk about the technical tax of this, is the following. You can do a lot of independent expenditures. Fine. But what is the (c)4 activity that is the primary activity?

Now, my taste runs to taking vacant lots and turning them into playgrounds. I would love to see political operatives of both political parties both devote themselves to that. But let us not fantasize. Because of the way the IRS has, in fact, interpreted the law, then lobbying can be the sole exempt function of these kind of organizations that are springing up like mushrooms in both parties. And I have always had trouble with the IRS treating lobbying as an exempt activity, because I think the original point was you would be converting vacant lots to playgrounds, and you had to lobby the zoning board or the city council to get it done. The lobbying was related to that kind of purpose.

Ms. HILL. But now it is clear that you can use your lobbying as your exempt purpose. That is a powerful, powerful money-raising machine that has all sorts of implications for advocacy and public policy, for the dollar amounts involved, for the expectation of supportive, independent expenditures. And I think that we need to look at not what the Supreme Court has decided because they have decided that, we have to look at whether lobbying is an exempt purpose or only a permissible purpose in furtherance of and related to some other 501(c)(3) exempt activity. And that I think is really important for the use of 501(c)(4) structures.

Mr. KIND. Thank you for that comment.

Mr. Chairman, I might propose that this could be ripe for a future congressional hearing for us to get into in a little more detailed fashion. I think this is an area that does deserve some greater scrutiny.

Mr. Josephson, let me turn to you.

Mr. JOSEPHSON. May I comment on your first question, sir?

Mr. KIND. Yes. I am limited on time though.

Mr. JOSEPHSON. I understand, and I will be very brief.

I also teach exempt organizations at NYU, and I asked my class the other night, in light of the Citizens Union case, how long they think it would take before a 501(c)(3) brings an action similar to Citizens Union to exercise its right to intervene in a political campaign and whether or not the tradeoff between the exemption and the First Amendment right, which would trump which?

Mr. KIND. That is an interesting inquiry. I don't think it is going to take long at all.

Mr. Josephson, I was a little surprised when I heard you testify that you only had a couple of days really to look at the prepared investigative report that was submitted to you for testimony this week, but in your testimony you stated that you thought it was unprecedented in your experience for a tax exempt organization to have eight affiliates; is that right?

Mr. JOSEPHSON. It is unprecedented in my experience, that is correct.

Mr. KIND. Have you heard of any type of eight-affiliate limit for tax exempt organizations though?

Mr. JOSEPHSON. No, I have not.

Mr. KIND. Would it surprise you if I told you that the British Broadcasting Network, the largest social welfare organization here in the United States, listed nearly 100 related entities on its Form 990 Schedule R?

Mr. JOSEPHSON. I would be flabbergasted as well.

Mr. KIND. Yes. I was just looking at that myself; I was a bit flabbergasted as well. Or the fact that a Harvard University entity has over 145 related entities listed on its Form 990. And there are other organizations too that are larger than AARP that have a lot more affiliated entities that they are listing on their Schedule Rs, as Professor Hill just indicated. That, I think, is going to deserve more attention as we move forward.

Mr. JOSEPHSON. I agree.

Mr. KIND. Which brings me back to the original point. Why AARP? Why today? Why under these circumstances when there could be a whole host of organizations sitting up there right along with them subject to the same inquiry and the same line of questioning. And again, on the surface, it does smack of political retribution. I mean, the same questions could have been asked to AARP after the prescription drug bill was passed in 2004 when you guys were in charge, but you didn't haul them in front of us then because they were supportive 4 years ago.

Chairman HERGER. The gentleman's 5 minutes has expired.

The gentlewoman from Tennessee, Mrs. Black, will inquire for 5 minutes.

Mrs. BLACK. Thank you, Mr. Chairman.

And before I begin my remarks and the questions for the witnesses I want to once again say thank you to this committee for doing what it is to be doing, and that is oversight. Regardless of where we started, this committee is doing what its role and responsibility are, and that is oversight. And I hope we will have more of this. And I encourage those that are trying to characterize this as a witch hunt will bring about those concerns that they have that they are mentioning right here today.

But let me go to my question. As a condition of the tax exempt status of 501(c)(4), entities are expected to operate for the benefit of the community. And though evidence suggests that AARP may have strayed a bit from that mission, the size and the extent of AARP's insurance-related business activities compared to their social welfare programs and their executive compensation suggests that maybe AARP may not be operating primarily for the benefit of the community.

Indeed, AARP's royalty revenues—primarily from insurance companies—nearly tripled from 2002, with $218 million, to 2009, at $656 million. They also report to have $2.2 billion worth of assets and $1.4 billion worth of revenues for 2009. Yet, at the same time, AARP's cash and in-kind contributions to their foundation only increased by 11 percent, $3.1 million, and their cash contributions to the Legal Counsel for the Elderly actually decreased by 9 percent.

And in the last session I noted that, as Mr. Rand spoke about when questioned where their dollars are going for their advocacy, he started out by making a statement about percentage of their revenues spent on their advocacy, and he very quickly changed that to say the percentage of their expenditures. And so as I look at the amount of revenue and how rapidly it has grown by the various ways that they have allowed their label to be used and been able to receive a royalty on that, it doesn't appear that what they are getting in the royalty also matches what they are doing in their advocacy.

Would that be something that the IRS would be looking at? And it is either one of you, Ms. Hill or Mr. Josephson, whichever of you would like to answer that.

Ms. HILL. I will start. Here is the way I look at the chart and the discussion this morning. The measure of whether the (c)(4) entity—and remember, I know nothing about this particular case and I didn't come here claiming to know about this particular case, but a (c)(4) that has an affiliated 501(c)(3) public charity is not obligated to contribute a dime to that affiliated public charity. That affiliated public charity could raise all its money from outside. So anything they contribute to the (c)(3) is voluntary and is not a measure of their own exempt activities. One has to look at whether they are pursuing their own 501(c)(4) purposes and exempt activity as a measure, and then one can discuss whether that has become larger commensurately. But there is no requirement in fact that the (c)(4)'s income from something like a royalty actually match, then, a commensurate increase in its (c)(4) activities because 501(c) organizations, tax exempt organizations, heretofore have had broad latitude in defining programs, saving money for later times, are making these decisions. Now Congress is free to legislate otherwise, but they have not done so, or States would be free to do that, but States have not done so.

So I think the looking at how many contributions, the scope of the contribution to the (c)(3) is not the measure, and one has to look at the (c)(4), but there is no benchmark and no requirement under current law.

Mr. JOSEPHSON. I agree with Professor Hill, but I would make a further comment if I may, and that is, listening to the testimony this morning, AARP certainly made a point about the section 501(c)(3) activities of its (c)(3) organizations. Yet, assuming the chart in the investigative report is correct, while it is not required to fund its (c)(4) monies with those organizations, it certainly appears not to have done so commensurate with the increase in its revenues. And if I may also say so, its return on equity, if the report is correct, is astonishing.

Mrs. BLACK. I am curious, and I know my time is up, but I am curious, Mr. Chairman, even looking at the legality of this, but it is the morality of it, too, in which the organization is selling itself one way to those that are seniors that are getting the services and actually how they are using their money.

Thank you.

Chairman HERGER. The gentlewoman's time has expired.

Again I want to thank our witnesses for your testimony today.

As a reminder, any member wishing to submit a question for the record will have 14 days to do so. To all of today's witnesses, if any questions are submitted, I ask that you respond in a timely manner.

With that, the subcommittees are adjourned.

[Whereupon, at 2:20 p.m., the subcommittees were adjourned.]

MEMBER SUBMISSIONS FOR THE RECORD

The Honorable Mr. Stark
Submission 1

AMERICAN ACTION FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

Submission 2

AMERICAN ACTION FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

Submission 3

AMERICAN ACTION FORUM

February 1, 2011

Congressman Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Levin:

Thank you for your letter dated January 26, 2011. Let me begin by clarifying factual matters in your letter. Neither the American Action Forum nor the American Action Network were organized by, nor have any legal connection to, either Karl Rove or Ed Gillespie.

Second, we are in full compliance with all relevant disclosure obligations. Your letter seems to suggest that we remain free to improvise on additional disclosure. I would heartily disagree, as leading non-profit best practice authorities counsel to the contrary. For example, Principle 33 from Independent Sector's Principles of Good Governance and Ethical Practice states:

> A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

More generally, your question presumes that it is within my power or that of the American Action Forum to publicly disclose the names of donors. In fact that power resides with the donors themselves, and it would be inappropriate for me to usurp that power by waiving free speech and privacy rights that ultimately belong to them.

This is not an issue that I take lightly. As you are well aware, the issue of donor disclosure has been greatly debated during the past decade. In fact, in January 2000, at the specific direction of Congress (in section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998), the Joint Committee on Taxation (JCT) prepared a study of disclosure provisions relating to tax-exempt organizations (JCS-1-00, vol. 2), and specifically declined to recommend individual donor disclosure because of donors' "legitimate privacy concerns" and because it would discourage charitable giving. In complying with our disclosure requirements, then, the American Action Forum is following the best guidance of Congress and the non-profit sector.

For these reasons, I am unable to provide the information you request. I hope to continue to work with you and the committee on issues of importance to our country.

Sincerely,

Douglas Holtz-Eakin
President

1401 New York Avenue, NW Suite 1200 | Washington, DC 20005
PHONE 202.559.6420 FAX 202.347.5009
www.americanactionforum.org

QUESTIONS FOR THE RECORD

The Honorable Mr. Herger, The Honorable Mr. Boustany, and The Honorable Mr. Reichert

Letter to AARP

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 21, 2011

A. Barry Rand
Chief Executive Officer
AARP, Inc.
601 E Street, NW
Washington, DC 20049

Dear Mr. Rand,

Thank you for testifying at the April 1, 2011 joint hearing of the Committee on Ways and Means Subcommittees on Health and Oversight. Based upon comments you or Lee Hammond, President of AARP, Inc., made at the hearing, there are a number of documents and answers that AARP agreed to provide the Subcommittees. Likewise, there are unresolved matters or areas that require further clarification. To that end, this letter is intended to follow up on those matters.

In order to clearly delineate the source of the inquiries, questions have been divided into the following categories:

1. Information you or Lee Hammond agreed to provide the Subcommittees during the hearing;

2. Questions and clarifications related to possibly inaccurate or incomplete statements made during the hearing, including inaccuracies brought to Committee staff's attention by AARP's outside counsel; and

3. Outstanding questions you either failed to answer at the hearing or previously refused to address, but that we hope you will now provide given your organization's recently stated commitment to transparency.

Furthermore, while you were the official witness on behalf of AARP, Inc. and its affiliates, per your outside counsel's request, the Subcommittees allowed Mr. Hammond to accompany you at the witness table for the purpose of assisting you in answering questions to which you might not have the answer readily available. Accordingly, some of the questions below are based on statements made during the hearing by Mr. Hammond. Given the time you have had to review these matters, we expect complete answers to all questions.

Information Mr. Rand or Mr. Hammond agreed to provide the Subcommittees.

1. Royalty amounts that AARP receives, on an annual basis, for the Medicare Advantage (MA) and Medicare Part D prescription drug plans under AARP's current contract with United, which runs through 2014. Please list the royalty amount separately for each insurance product type.

2. The amount of money AARP earned on the interest from holding insurance premiums for AARP-branded insurance products and the amount of taxes paid, if any, on the interest earned, in each of the last ten years. Also provide the length of time the premium money is held by AARP, in accordance with the contracts, for each AARP-branded insurance product.

3. Clarification of whether AARP, Inc. or any of its affiliated entities employ or contract with actuaries. If there are actuaries employed by or under contract, please detail how many, in what organization they are employed, and their primary job responsibilities.

4. Information on every meeting with individuals representing the White House and the Obama Administration that included an AARP representative, whether employed by AARP or contracting with AARP, the dates of those meetings, and the names of White House and Administration representatives at such meetings from 2009 through 2011 where health care was discussed.

5. A detailed description and funding amount of the member services provided to AARP members today that were not provided in 2002.

Questions and clarifications related to certain statements (including omissions) made during the hearing, including inaccuracies brought to Committee staff's attention by AARP, Inc.'s outside counsel.

6. When asked, "What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?" you responded that, "I can't answer the future. We have not talked about that."

   Given that AARP's Medigap contract with UnitedHealth Group runs through 2017, the royalty payment (defined as percentage of Medigap premiums retained by AARP) that AARP receives in future years covered under the contract should be readily available. Please provide us with information detailing the percentage of the Medigap premium that AARP will receive in 2011 through 2017.

7. When you were asked if AARP makes money off of its NASCAR sponsorship you replied, "We don't make any money on this."

   However, according to NASCAR's announcement of the AARP deal: "Sales will be managed by Kyle Lewis, AARP vice president of business development, and Andrew Campagnone, senior vice president of motorsports for Wunderman, who helped put together the deal...[AARP] expects to have no problem recouping its investment in the car or collecting donations for its effort to end hunger. It plans to set a benchmark early next year for how much of every dollar it raises is directed to fighting hunger."

   Given this statement, please clarify whether or not AARP, Inc. or any of its affiliates, will receive revenue from selling advertisement space on the car. If so, how much has AARP received thus far? How much will AARP receive over the next three years of the sponsorship deal, in accordance with advertising contracts with other entities that have already been signed? Additionally, how much of every dollar of advertising revenue will be directed to this hunger initiative that are not related to overhead costs?

8. You claimed that AARP does not collect Medigap insurance premiums from seniors and that AARP does not receive royalty payments for the sale of AARP-branded Medigap insurance plans. Your claim is inconsistent with AARP's most recent Notes to Consolidated Financial Statements which state that the AARP Insurance plan, "a grantor trust, holds group policies, and maintains depository accounts to initially **collect insurance premiums** received from participating members. In accordance with the agreement referenced above [contracts with UnitedHealth Group, Metropolitan Life Insurance Company, Genworth Life Insurance Company, and Aetna Life Insurance Company], **collections are remitted to third party insurance carriers within contractually specified periods of time, net of the contractual royalty payments that are due to AARP, Inc.,** which are reported as royalties in the consolidated statement of activities." (*emphasis added*)

   Additionally, please see the enclosure showing AARP and UnitedHealth Group's Medigap insurance filing with the Rhode Island Department of Business Regulation's Division of Insurance Regulation in 2010. This filing shows that 4.95 percent of the Medigap premiums are classified in the filing as "royalties." These royalties are presumably being paid to AARP.

   Given these facts, we would like to provide you with the opportunity to correct what appears to be a clear misstatement. Which entity collects premiums directly from Medicare beneficiaries for AARP-branded Medigap insurance policies? Further, what percentage of this premium does AARP retain before sending the remainder to UnitedHealth Group in 2011? What percentage of premium payments will AARP retain in each of the remaining years on AARP's current Medigap contract with United?

9. With regard to the interest AARP earns by keeping Medicare beneficiaries' insurance premiums, you stated that the premium revenue is held in a "simple interest-bearing account." AARP's outside counsel clarified after the hearing that the Medicare beneficiaries' premium money is also invested by AARP in other ways, including securities.

   Please provide a detailed account of what your outside counsel meant by "other investments" when he wrote "the Trust assets are held not only in an interest bearing account, but they are also invested in securities and other investments." Also, provide the total premium dollar amount that the AARP Insurance Plan and AARP, Inc. have invested since 2002; what percentage of that annual total was invested in securities and what remained in an interest bearing account; and specify the industry sectors in which these "other investments" are made.

10. When asked if AARP Services has any role whatsoever in setting insurance premiums or rates, you stated, "The answer is no."

    However, AARP's outside counsel informed staff after the hearing that, in fact, AARP Services, Inc. (ASI) does "review" premium rates and may negotiate with the insurance carriers so that such rates are deemed "reasonable" by AARP standards. Once ASI and AARP's insurance partners come to an agreement, AARP's Insurance Plan must approve the premium rate. If approved, the rate is forwarded to the state insurance commissioners.

    We would like to give you the opportunity to answer the question again. What role does AARP Services have in setting the premiums for AARP-branded insurance products? Is AARP's Insurance Plan's Board of Directors responsible for approving insurance premiums for AARP-branded insurance products? If so, which products?

11. When questioned about which AARP entity oversees its insurance contracts, Mr. Hammond responded that "they are not overseen by the [AARP, Inc.] board, they are overseen by [AARP Services, Inc.], which is our for-profit. They manage and oversee the contracts." It is important to note that in 2010, two of AARP, Inc.'s Directors also served on the board of AARP Services.

    Based upon the information received from AARP's outside counsel described above, including the fact that the AARP Insurance Plan Board must approve the contract and premiums and that this group was entirely comprised of AARP, Inc. directors in 2010, on what is the basis for your assertion that the AARP, Inc. board does not oversee the contract with UnitedHealth Group?

12. Mr. Hammond claimed there are "basically three different boards involved in the AARP organization." Mr. Hammond mentioned the boards of AARP, Inc., AARP Services, Inc., and the AARP Foundation. However, Mr. Hammond failed to recall the AARP Insurance Plan board, which processed $6.8 billion in insurance premiums in 2009 and claimed seven AARP, Inc. Directors as its entire board in 2010. When asked if the three boards identified by Mr. Hammond are located in the same office, Mr. Hammond responded, "They have three different offices. They meet at three different spots."

    However, AARP, Inc. and the AARP Foundation both list 601 E Street, NW, Washington, DC 20049 as its address. Do you stand by Mr. Hammond's claim that AARP, Inc. and the AARP Foundation have different offices?

Outstanding questions that AARP, Inc. either failed to fully answer at the hearing or has previously refused to answer.

13. You were asked twice, by two different members, whether AARP would commit to forgoing any Exchange insurance product-related revenue, whether by royalty commission, or otherwise, beginning in 2014. You failed to answer the question both times it was asked. We would like you to answer this very simple question:

    Will AARP commit to not endorsing or selling insurance in the government-run Exchanges? Will AARP decline any royalty, commission payments, licensing fees, or revenue from any insurance company that is related to an insurance product offered in the Exchange?

14. When asked why the AARP, Inc.'s cash and in-kind contributions have not kept pace with AARP's royalty revenues growth and how this comports with AARP's tax-exempt status, you simply responded that "All of our money does go to our mission."

    Please provide a detailed and specific accounting – by program and dollar amount - of how AARP's $1.4 billion in total operating revenue was spent in 2009 to further AARP's mission. As part of that, please indicate how AARP spent the more than $600 million of royalty revenues it collected in 2009, derived primarily from insurance companies, that were not provided to the AARP Foundation or AARP's Legal Counsel for the Elderly. In addition to specific programmatic spending, please provide an explanation of how the activity is related to AARP's mission. Please subtract any taxpayer-funded grant money from your calculations of how AARP spent its revenue in 2009.

15. When asked how many millions of dollars AARP receives from its Medigap insurance business, you responded that, "We will provide any of your asks that we can—that we have sole control over." As you have complete information about how much money AARP receives from its insurance business, please indicate how much money AARP has been or will be paid by UnitedHealth Group, in each year of its current contract, in direct royalty payments from the sale of AARP-branded Medigap insurance policies.

Again, thank you for participating in the Subcommittees' hearing. We look forward to reviewing your responses. Please provide this information to our offices no later than May 5, 2010. Thank you in advance for your cooperation and commitment to transparency.

Sincerely,

Wally Herger Chairman Subcommittee on Health	Charles Boustany, Jr., MD Chairman Subcommittee on Oversight	Dave Reichert Member of Congress

Enclosure

Attachment 12

Rhode Island
2010 Expenses by Category

Standardized Plans

Member Contribution	$10,557,791
Average Lives	5,418

Expenses	% of Member Contribution	PMPM
Royalty	4.95%	$8.04
Premium Taxes	2.00%	$3.25
Risk and Profit	1.85%	$3.00
Operating Expenses	4.49%	$7.29
Sales Expenses	4.17%	$6.77
Commissions	0.71%	$1.15
Investment Income Credit	-0.58%	($0.94)
Total Expenses	17.59%	$28.56

Response to Letter

AARP

601 E Street, NW
Washington, DC 20049
T 202-434-2277
1-888-OUR-AARP
1-888-687-2277
TTY 1-877-434-7598
www.aarp.org

May 6, 2011

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

Dear Chairman Herger, Chairman Boustany, and Representative Reichert:

Thank you for your letter of April 21, 2011 following up on issues that Lee Hammond and I discussed at the hearing on April 1, 2011. We are pleased to have the opportunity to provide this additional information, clarify some of our statements, and answer other questions you have raised. We have reproduced your questions below for your convenience.

1. **Royalty amounts that AARP receives, on an annual basis, for the Medicare Advantage (MA) and Medicare Part D prescription drug plans under AARP's current contract with United, which runs through 2014. Please list the royalty amount separately for each insurance product type.**

At the hearing, I said that I did not have the breakdown of payments to AARP for United's individual health insurance products that carry the AARP name. I agreed to provide the total in writing. The total for 2009 was $425,070,178 and for 2010 it was $441,287,102. As previously explained in our responses to the Committee of November 2, 2009 and December 18, 2009, the amount by product is proprietary information. In order to provide the best prices and value for those we serve, we cannot publicly disclose the details of arrangements we have agreed to with different providers because that affects the ability to negotiate on behalf of our members and others who choose products that carry the AARP name as best meeting their specific needs. Nonetheless, AARP is prepared to disclose the information to the Committee if the Committee guarantees appropriate protections that are necessary for us to be able to fulfill our mission.

2. **The amount of money AARP earned on the interest from holding insurance premiums for AARP-branded insurance products and the amount of taxes paid, if any, on the interest earned, in each of the last ten years. Also provide the length of time the premium money is held by AARP, in accordance with the contracts, for each AARP-branded insurance product.**

At the hearing, I provided rounded answers to this question for the two years for which I have been at AARP. As requested, here are the detailed figures for income earned for the last ten years:

2001	33,133,399
2002	26,707,932
2003	24,432,340
2004	22,931,527
2005	19,838,677

W. Lee Hammond, President
Addison Barry Rand, Chief Executive Officer

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 2

2006	32,319,596
2007	40,422,345
2008	(69, 262,988)
2009	89,985,195
2010	56,668,525

The income earned on premiums held by the Trust is treated as excludible under section 512(b) of the Internal Revenue Code and therefore is not subject to tax.

Regarding the length of time the premium money is held by AARP, there is no one answer to this question because it depends on when the insureds send in their premiums. Some pre-pay for an entire year (for which they receive a discount), others pay on time, and others pay late. Payments are made from the Trust to the insurers at set times. Thus, the amount of time that the Trust has any particular premium in its account will vary widely. Most premiums are paid by the insureds at some point in the month before they are due to the insurer.

3. **Clarification of whether AARP, Inc. or any of its affiliated entities employ or contract with actuaries. If there are actuaries employed by or under contract, please detail how many, in what organization they are employed, and their primary job responsibilities.**

AARP does not have practicing actuaries on staff. AARP and its subsidiaries retain Towers Watson and Beecher Carlson to perform actuarial consulting with regard to our employee pension plan, retiree medical plan, and other employee benefit and liability insurance programs. AARP Services, Inc., our taxable subsidiary, retains two consulting firms that include actuarial resources, Towers Watson and Mercer, to assist in its quality control activities regarding AARP-branded products. Towers Watson provides consulting services to assist AARP Services in the monitoring of the performance of the AARP-branded products in the areas of homeowners and vehicle insurance. Mercer provides similar services with regard to AARP-branded health products and services.

4. **Information on every meeting with individuals representing the White House and the Obama Administration that included an AARP representative, whether employed by AARP or contracting with AARP, the dates of those meetings, and the names of White House and Administration representatives at such meetings from 2009 through 2011 where health care was discussed.**

Although your letter indicates otherwise, I do not believe that I agreed to provide this information. Nonetheless, attached are excerpts from the White House visitor logs recently provided by the White House in response to a similar request from the House Energy and Commerce Committee that show AARP attendees at meetings related to health care reform.

5. **A detailed description and funding amount of the member services provided to AARP members today that were not provided in 2002.**

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 3

Again, although your letter indicates otherwise, I do not believe that I agreed to provide this information. Rather, I requested clarification on the question, which you have now provided in your letter, and we appreciate the opportunity to follow up accordingly.

We note that our mission is to serve all Americans age 50+, not just our members. We do that through a broad range of activities, including information, education, advocacy, benefits and services. That said, we are happy to note a number of new programs for AARP members introduced since 2002. These include but are not limited to:

- Health and wellness support, such as our online "doughnut hole" calculator, which has been used by more than 200,000 Medicare beneficiaries to plan for the gap in prescription drug coverage;
- Financial security tools, such as our online retirement savings calculator;
- Career fairs for older workers and online job search tools;
- Our volunteer engagement campaign, *Create the Good*, which connects older Americans to over 250,000 volunteer opportunities in their communities;
- Fraud prevention activities, including education and community document-shredding events;
- Online communities for members and all 50+;
- Our newly-redesigned website, which serves as a portal to all of our offerings, including advice from experts as well as content from our three flagship publications, and now includes a companion Spanish language website;
- Our "Complete Streets" initiative that uses volunteers to assess mobility options for pedestrians and cyclists;
- Two TV shows, *My Generation* and *Inside E Street*, which air on PBS stations;
- Our support of the Drive to End Hunger, discussed further in our response to question 7;
- Our efforts aimed at capturing the nation's historic legacy, including our collaborations with the Library of Congress, *Voices of Civil Rights* and the *Veterans History Project;* and
- A convenient online version of AARP's popular Driver Safety Program.

Specific budgetary information is not tracked for most of these new programs – for example, web tools are included in the overall website budget. More information by spending category is provided in our response to question 14.

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 4

6. **When asked, "What percentage of AARP's Medigap premiums will AARP keep in each year from 2011 until the current contract expires in 2017?" you responded that, "I can't answer the future. We have not talked about that."**

   Given that AARP's Medigap contract with UnitedHealth Group runs through 2017, the royalty payment (defined as percentage of Medigap premiums retained by AARP) that AARP receives in future years covered under the contract should be readily available. Please provide us with information detailing the percentage of the Medigap premium that AARP will receive in 2011 through 2017.

As we have explained in our submissions of November 2, 2009 and December 18, 2009, the specific royalty percentages are proprietary. In order to provide the best prices and value for those we serve, we cannot publicly disclose the details of arrangements we have agreed to with different providers because that affects the ability to negotiate on behalf of our members and others who choose products that carry the AARP name as best meeting their specific needs. Nonetheless, AARP is prepared to disclose the information to the Committee if the Committee guarantees appropriate protections that are necessary for us to be able to fulfill our mission.

7. **When you were asked if AARP makes money off of its NASCAR sponsorship you replied, "We don't make any money on this."**

   However, according to NASCAR's announcement of the AARP deal: "Sales will be managed by Kyle Lewis, AARP vice president of business development, and Andrew Campagnone, senior vice president of motorsports for Wunderman, who helped put together the deal...[AARP] expects to have no problem recouping its investment in the car or collecting donations for its effort to end hunger. It plans to set a benchmark early next year for how much of every dollar it raises is directed to fighting hunger."

   Given this statement, please clarify whether or not AARP, Inc. or any of its affiliates, will receive revenue from selling advertisement space on the car. If so, how much has AARP received thus far? How much will AARP receive over the next three years of the sponsorship deal, in accordance with advertising contracts with other entities that have already been signed? Additionally, how much of every dollar of advertising revenue will be directed to this hunger initiative that are not related to overhead costs?

The goal of Drive to End Hunger is to raise funds, resources and awareness to end hunger among older Americans. At the time of the sponsorship announcement, AARP anticipated being able to recoup—and ideally to exceed—its initial investment in the Hendrick Motorsports sponsorship by selling space on the Drive to End Hunger car. In addition to raising charitable contributions for the hunger programs of the AARP Foundation, it was envisioned that any excess advertising revenue that AARP received beyond its original investment would go to the AARP Foundation to fund its anti-hunger work. At the time of the hearing six months later, however, it had become clear that recouping the initial investment through the sale of advertising on the Drive to End Hunger car or related items (uniforms, transport trucks, etc.) is unlikely this year, in part because of our decision to ensure high visibility for the hunger awareness campaign on the car throughout the NASCAR

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 5

season.

AARP and the AARP Foundation embarked on this effort because every day, more than 6 million Americans over age 60 face the threat of hunger. Drive to End Hunger is our multi-year commitment to solving this problem. Core components of Drive to End Hunger include building awareness of the issue of senior hunger; collaborating with national partners who share a goal of feeding seniors by working to enhance and supplement distribution networks – like food banks and food pantries; generating resources for the cause through individual and corporate fundraising campaigns; local SNAP (Supplemental Nutrition Assistance Program) outreach and enrollment assistance; and developing solutions to senior hunger through grant-making.

Already, Drive to End Hunger has brought numerous resources to the AARP Foundation. The generous NASCAR fan base has contributed to food drives organized by AARP and the AARP Foundation that benefit local food banks and also has donated directly to AARP Foundation hunger programs. Additionally, the owner of a number of race tracks has announced it will donate all extra food items from race weekends to the local food banks that serve the race track areas. These contributions together have enabled us to provide for over 360,000 meals after just five of our 22 races this year.

To date, Drive to End Hunger has also attracted corporate donation commitments of over $6 million to AARP Foundation for its hunger programs and additional significant corporate donations are anticipated as the race season progresses. Further, 100 percent of AARP revenues from sales of Drive to End Hunger car merchandise, such as T-shirts, caps, and toy cars, are donated to the Foundation's work on hunger. Finally, according to an Associated Press story on March 18, 2011, a study by Joyce Julius & Associates shows the sponsorship has "totaled nearly $7.6 million of in-broadcast exposure value for new sponsor Drive to End Hunger" after just two of 22 scheduled races at the time.

Overall, we believe that the impact of AARP's sponsorship of the Drive to End Hunger car in bringing attention as well as tangible contributions to the cause will play an essential role in the Foundation's multifaceted effort to find a long-term solution to ending senior hunger in America.

8. **You claimed that AARP does not collect Medigap insurance premiums from seniors and that AARP does not receive royalty payments for the sale of AARP-related Medigap insurance plans. Your claim is inconsistent with AARPs most recent Notes to Consolidated Financial Statements which state that the AARP Insurance plan, "a grantor trust, holds group policies, and maintains depository accounts to initially collect insurance premiums received from participating members. In accordance with the agreement referenced above [contracts with UnitedHealth Group, Metropolitan Life Insurance Company, Genworth Life Insurance Company, and Aetna Life Insurance Company], collections are remitted to third party insurance carriers within contractually specified periods of time, net of the contractual royalty payments that are due to AARP, Inc., which are reported as royalties in the consolidated statement of activities." *(emphasis added)***

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 6

Additionally, please see the enclosure showing AARP and UnitedHealth Group's Medigap insurance filing with the Rhode Island Department of Business Regulation's Division of Insurance Regulation in 2010. This filing shows that 4.95 percent of the Medigap premiums are classified in the filing as "royalties." These royalties are presumably being paid to AARP.

Given these facts, we would like to provide you with the opportunity to correct what appears to be a clear misstatement. Which entity collects premiums directly from Medicare beneficiaries for AARP-branded Medigap insurance policies? Further, what percentage of this premium does AARP retain before sending the remainder to UnitedHealth Group in 2011? What percentage of premium payments will AARP retain in each of the remaining years on AARPs current Medigap contract with United?

Thank you for the opportunity to clarify my statement at the hearing. As we explained on page 3 of our December 18, 2009 letter to Representatives Herger, Brown-Waite, and Reichert:

> [T]he AARP Trust collects premiums, and remits them to the applicable insurance company, for the following products carrying the AARP name: (1) the Medicare Supplement and under-65 insurance and indemnity plans offered by United HealthCare Corporation, (2) the under-65 insurance products from Aetna Life Insurance Company, and (3) the long term care insurance products from Genworth Life Insurance Company and Metropolitan Life Insurance Company. The insurers direct the Trust to pay the royalty owed by the insurers to AARP, and certain deductions are made to pay expenses incurred by the Trust.

The email from Ray Shepherd to Dan Elling and Jill Schmalz, dated June 16, 2010, and the email from Ray Shepherd to Dan Elling, dated April 5, 2011 (sent shortly after the hearing to clarify the response on this issue) convey similar information, which is the correct explanation of how the premiums are handled.

9. **With regard to the interest AARP earns by keeping Medicare beneficiaries' insurance premiums, you stated that the premium revenue is held in a "simple interest-bearing account." AARP's outside counsel clarified after the hearing that the Medicare beneficiaries' premium money is also invested by AARP in other ways, including securities.**

   Please provide a detailed account of what your outside counsel meant by "other investments" when he wrote "the Trust assets are held not only in an interest bearing account, but they are also invested in securities and other investments." Also, provide the total premium dollar amount that the AARP Insurance Plan and AARP, Inc. have invested since 2002; what percentage of that annual total was invested in securities and what remained in an interest bearing account; and specify the industry sectors in which these "other investments" are made.

Thank you for the opportunity to clarify my response to your questions at the hearing. As we have explained in prior responses, "[w]hile within the Trust, [premiums] are invested, and income earned from the investment of premiums while on deposit with the Trust is paid to AARP and used to support AARP's mission and operation (and AARP bears the risk of any loss that may result from the investment)." (Email from Ray Shepherd to Dan Elling and Jill Schmalz, June 16, 2010).

We appreciate the opportunity to supplement and further explain how the Trust invests the premiums. The Trust assets are invested, pursuant to the Trust investment policy, in readily marketable securities, cash equivalents, fixed income, and equities as appropriate to the cash flow requirements of the Trust. Funds that will be needed to pay premiums near term are usually invested in cash equivalents and short term fixed income investments; funds that are expected to be held over longer periods are typically invested in government, municipal, and corporate debt, large cap equities, small cap equities, and international equities. The investment policy provides that the investments are to be at all times broadly diversified both according to economic sector and industry; thus, no particular sector or industry is targeted. The percentages held in any of these investments vary depending on the cash flow needs of the Trust, which can change from time to time.

10. When asked if AARP Services has any role whatsoever in setting insurance premiums or rates, you stated, "The answer is no."

However, AARP's outside counsel informed staff after the hearing that, in fact, AARP Services, Inc. (ASI) does "review" premium rates and may negotiate with the insurance carriers so that such rates are deemed "reasonable" by AARP standards. Once ASI and AARP's insurance partners come to an agreement, AARP's Insurance Plan must approve the premium rate. If approved, the rate is forwarded to the state insurance commissioners.

We would like to give you the opportunity to answer the question again. What role does AARP Services have in setting the premiums for AARP-branded insurance products? Is AARP's Insurance Plan's Board of Directors responsible for approving insurance premiums for AARP-branded insurance products? If so, which products?

Thank you for the opportunity to clarify my comments at the hearing and to supplement our prior responses. As we explained in our correspondence of April 5, 2011, although ASI does not set the premiums for AARP-branded health insurance products, it does review the premiums proposed by the carriers as part of its responsibility for quality control over the products. In order for ASI to be satisfied about the reasonableness of the rates, consistent with its quality assurance responsibilities, there may be a fair amount of back and forth discussions with the carrier. This includes ASI prompting the carrier to keep its expenses low and thereby keep the premiums reasonable for AARP members and insureds.

Once ASI is satisfied with the rates, the AARP Insurance Trust reviews and approves the final recommendation for the average rate increases. The carriers then submit the rates to the state insurance commissions for final approval. ASI and the Trust perform this review for the AARP-branded long term care insurance, health insurance for persons aged 50-64, and Medicare Supplement insurance.

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 8

11. When questioned about which AARP entity oversees its insurance contracts, Mr. Hammond responded that "they are not overseen by the [AARP, Inc.] board, they are overseen by [AARP Services, Inc.], which is our for-profit. They manage and oversee the contracts." It is important to note that in 2010, two of AARP, Inc.'s Directors also served on the board of AARP Services.

Based upon the information received from AARP's outside counsel described above, including the fact that the AARP Insurance Plan Board must approve the contract and premiums and that this group was entirely comprised of AARP, Inc. directors in 2010, on what is the basis for your assertion that the AARP, Inc. board does not oversee the contract with UnitedHealth Group?

Thank you for the opportunity to clarify Mr. Hammond's statement. AARP retains AARP Services, Inc. (ASI) to perform quality control over its member benefit insurance programs, including the AARP-branded programs offered by United. The ASI board is responsible for ensuring high performance by ASI staff. In addition, AARP has several methods of overseeing the performance of ASI, including staff oversight of ASI's performance under AARP's contracts with ASI, representation on the ASI board, oversight by the AARP Insurance Trust, and final approval of new products by the full AARP board. However, consistent with Mr. Hammond's statement at the hearing, the primary responsibility for the oversight of the member benefit programs rests with ASI.

12. Mr. Hammond claimed there are "basically three different boards involved in the AARP organization." Mr. Hammond mentioned the boards of AARP, Inc., AARP Services, Inc., and the AARP Foundation. However, Mr. Hammond failed to recall the AARP Insurance Plan board, which processed $6.8 billion in insurance premiums in 2009 and claimed seven AARP, Inc. Directors as its entire board in 2010. When asked if the three boards identified by Mr. Hammond are located in the same office, Mr. Hammond responded, "They have three different offices. They meet at three different spots."

However, AARP, Inc. and the AARP Foundation both list 601 E Street, N.W., Washington, DC 20049 as its address. Do you stand by Mr. Hammond's claim that AARP, Inc. and the AARP Foundation have different offices?

Yes, we stand by Mr. Hammond's statement. The AARP Foundation owns its own offices at 601 E Street. AARP owns its own offices in the same building. The AARP board meets in the AARP board room located on the tenth floor of 601 E Street while the AARP Foundation board meets in the Foundation board room located within its own space on the fourth floor.

Regarding the Insurance Trust trustees, the AARP Insurance Trust holds group insurance policies on behalf of AARP members and insureds; it was created in 1958 for this purpose as a result of the rules around group insurance in place at the time. As a grantor trust, the Trust is essentially a part of AARP. As such, as you correctly note, its board of trustees is entirely composed of AARP board members, similar to an AARP board committee. AARP's governance structure is designed to ensure that the mission of AARP is well represented throughout all related entities. This is accomplished, in part, through representation on the various boards.

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 9

13. **You were asked twice, by two different members, whether AARP would commit to forgoing any Exchange insurance product-related revenue, whether by royalty commission, or otherwise, beginning in 2014. You failed to answer the question both times it was asked. We would like you to answer this very simple question:**

    Will AARP commit to not endorsing or selling insurance in the government-run Exchanges? Will AARP decline any royalty, commission payments, licensing fees, or revenue from any insurance company that is related to an insurance product offered in the Exchange?

Since its founding in 1958, AARP has sought to ensure that the people it serves, Americans age 50+, have access to affordable health care. The new health care legislation should afford improved access to health care for those we serve, through, for example, the Exchanges, the elimination of pre-existing condition exclusions, the closing of the "doughnut hole," and free preventive benefits. That is the reason we supported the legislation. However, the health care landscape will be changing dramatically as the legislation is phased in, and we cannot know today whether the needs of those we serve will be met by the marketplace. It would be contrary to our mission to state today that no matter what happens in the future, AARP will never be needed to help make available an insurance program to ensure that older Americans have access to affordable health care that the marketplace is not otherwise adequately providing.

14. **When asked why the AARP, Inc.'s cash and in-kind contributions have not kept pace with AARP's royalty revenues growth and how this comports with AARP's tax-exempt status, you simply responded that "All of our money does go to our mission."**

    Please provide a detailed and specific accounting – by program and dollar amount – of how AARP's $1.4 billion in total operating revenue was spent in 2009 to further AARPs mission. As part of that, please indicate how AARP spent the more than $600 million of royalty revenues it collected in 2009, derived primarily from insurance companies, that were not provided to the AARP Foundation or AARP's Legal Counsel for the Elderly. In addition to specific programmatic spending, please provide an explanation of how the activity is related to AARP's mission. Please subtract any taxpayer-funded grant money from your calculations of how AARP spent its revenue in 2009.

As a 501(c)(4) social welfare organization, AARP carries out its tax-exempt mission primarily through its own social impact activities, including community services, education, and advocacy, not through support of its charitable affiliates. The AARP Foundation and Legal Counsel for the Elderly are expected to be self-sustaining through charitable fundraising to the extent possible, although AARP provides in-kind services, such as human resources, accounting, and information technology, to both affiliates along with financial contributions. Below is a chart showing AARP's consolidated expenditures in millions by program and dollar amount for 2009.

Community Benefits	254
Publications, Communications & Information	245

The Honorable Wally Herger
The Honorable Charles Boustany, Jr., MD
The Honorable Dave Reichert
May 6, 2011
Page 10

Member Service Activities	169
Advocacy, Legislation & Research	122
Human Resources, Financial Management & Operations	163
Member Acquisition	81
Pension & other post-retirement adjustments	(13)
Total	$1,021

The amount shown for community benefits includes a total of $97 million in federal grant-funded programs including housing counseling assistance, aging programs, tax assistance, and job training.

15. When asked how many millions of dollars AARP receives from its Medigap insurance business, you responded that, "We will provide any of your asks that we can – that we have sole control over." As you have complete information about how much money AARP receives from its insurance business, please indicate how much money AARP has been or will be paid by UnitedHealth Group, in each year of its current contract, in direct royalty payments from the sale of AARP-branded Medigap insurance policies.

Information about the amount of the royalty payments is proprietary. In order to provide the best prices and value for those we serve, we cannot publicly disclose the details of arrangements we have agreed to with different providers because that affects the ability to negotiate on behalf of our members and others who choose products that carry the AARP name as best meeting their specific needs. Nonetheless, AARP is prepared to disclose the information to the Committee if the Committee guarantees appropriate protections that are necessary for us to be able to fulfill our mission.

* * *

Thank you for the opportunity to provide the Committee with additional information and to clarify what we have previously provided to the Committee in writing and in our testimony.

Sincerely,

Addison Barry Rand

Addison Barry Rand

Attachment

AARP Attachment

White House Visitor Logs
AARP

LeaMond	Nancy	Executive Vice President, Government Relations	6/22/09	VALERIE JARRETT
LeaMond	Nancy	Executive Vice President, Government Relations	7/20/09	PETER ORSZAG
LeaMond	Nancy	Executive Vice President, Government Relations	10/19/09	NANCY DEPARLE
LeaMond	Nancy	Executive Vice President, Government Relations	11/3/09	RAHM EMANUEL
LeaMond	Nancy	Executive Vice President, Government Relations	12/3/09	RAHM EMANUEL
LeaMond	Nancy	Executive Vice President, Government Relations	2/26/10	JARED BERNSTEIN
LeaMond	Nancy	Executive Vice President, Government Relations	2/26/10	TERRELL MCSWEENY
LeaMond	Nancy	Executive Vice President, Government Relations	3/31/10	BARACK OBAMA
LeaMond	Nancy	Executive Vice President, Government Relations	4/15/10	NANCY DEPARLE
LeaMond	Nancy	Executive Vice President, Government Relations	4/27/10	NANCY DEPARLE
LeaMond	Nancy	Executive Vice President, Government Relations	5/21/10	PATRICK WHITTY
LeaMond	Nancy	Executive Vice President, Government Relations	9/15/10	NANCY DEPARLE

Rother	John	Executive Vice President, Policy	4/13/09	JENNIFER CANNISTRA
Rother	John	Executive Vice President, Policy	5/26/09	ELIZABETH BAFFORD
Rother	John	Executive Vice President, Policy	5/27/09	LEANDRA ENGLISH
Rother	John	Executive Vice President, Policy	6/10/09	SARAH FENN
Rother	John	Executive Vice President, Policy	7/20/09	KRISTIN SHEEHY
Rother	John	Executive Vice President, Policy	8/14/09	KAREN RICHARDSON
Rother	John	Executive Vice President, Policy	8/14/09	MATTHEW TRANCHIN
Rother	John	Executive Vice President, Policy	10/9/09	Barack Obama
Rother	John	Executive Vice President, Policy	11/3/09	RAHM EMANUEL
Rother	John	Executive Vice President, Policy	12/3/09	RAHM EMANUEL
Rother	John	Executive Vice President, Policy	1/12/10	ANN WIDGER
Rother	John	Executive Vice President, Policy	1/13/10	ANN WIDGER

Rother	John	Executive Vice President, Policy	3/3/10	BARACK OBAMA
Rother	John	Executive Vice President, Policy	6/22/09	VALERIE JARRETT
Rother	John	Executive Vice President, Policy	7/20/09	PETER ORSZAG

Sloane	David	Director, Government Affairs	10/14/09	MATTHEW TRANCHIN
Sloane	David	Director, Government Affairs	10/14/09	ANN WIDGER
Sloane	David	Director, Government Affairs	1/26/10	ANN WIDGER
Sloane	David	Director, Government Affairs	7/20/09	PETER ORSZAG

SUBMISSIONS FOR THE RECORD

Association of Mature American Citizens

Dear Chairmen Herger and Boustany, and Ranking Members Stark and Lewis,

Please accept this letter and accompanying testimony to be submitted for the official record. As the President of the Association of Mature American Citizens (AMAC), an organization representing American citizens aged 50 years and older, I want to commend the US House of Representatives Committee on Ways and Means on its decision to conduct the hearing "AARP's Organizational Structure and Finances" on Friday, April 1st, 2011.

Too often, policymakers and the general public assume that AARP represents the voices of all mature Americans. However, an increasing number of citizens believe that AARP has irresponsibly strayed from representing the interests of elder Americans and that a more balanced focus on the real concerns of seniors and retirees is long overdue. The Association of Mature American Citizens (AMAC) is a nonpartisan organization looking out for the interests of Americans 50 years of age and older. Considered an alternative to AARP, our organization has grown to over 100,000 members since its founding in 2007. AMAC endeavors to be advocates for seniors by promoting commonsense government and offering discounts on insurance hotels, car rentals and other products and services.

AMAC is pleased to see that your committee is taking a proactive and forward leaning look at the issues being covered in this hearing, and would like to engage with your committee on a range of critical concerns that American seniors and prospective retirees face. We greatly look forward to any opportunity to provide any insights or answer any questions regarding these or other matters that would be of concern to your committee or to American citizens over 50.

Thank you for your time and consideration.

Sincerely,

Dan Weber, President and Founder of the AMAC Foundation

– Statement for the Record –

Daniel Weber

President and Founder of the Association of Mature American Citizens

(AMAC)

House Committee on Ways and Means

Subcommittees on Health and Oversight

"AARP's Organizational Structure and Finances"

Friday, April 1, 2011 – 9:00 AM

1100 Longworth House Office Building

Contact and Administrative Information

Testimony Attribution:

Daniel Weber, President and Founder of AMAC

AMAC, The Association of Mature American Citizens

Address and Contact Information:

AMAC
39308 Treeline Dr.
Lady Lake, Fl., 32159

Main Phone: 352-751-3315
AMAC Phone: 352-561-4767
Email: WeberBenchmark@aol.com

Testimony submitted from Daniel C. Weber, President, the Association of Mature American Citizens (AMAC) for the House Ways and Means Committee on the April 1st , 2011 hearings concerning the AARP and the tax protection afforded that organization according to Sections 501 (c)3 and 501 (c)4 of the Internal Revenue Code.

My name is Daniel Weber and I am the president of the Association of Mature American Citizens, also known as AMAC. We are a similar organization to AARP in that we represent the views and interests of older Americans. After only four years in existence, we have over 135,000 paid members across the United States, most of who have joined in the last year. We are an organization that puts a premium on sound policy and maintaining focus on the concerns of elder Americans, retirees and senior citizens. In fact, our determined practice to stay focused on senior interests has helped to separate us from other senior citizen advocacy groups. Because of our commitment to senior causes and concerns, we continue to experience rapid growth in membership.

A number of core principles guide our efforts and operations. AMAC champions the traditional values held by most older Americans and seniors – specifically, faith, family, personal responsibility and individual freedom. Our organization views ideal government as a limited entity that has the responsibility to protect the freedoms enjoyed by the people, rather than a structure that rewards some groups at the expense of others. AMAC strives to keep a spotlight on the needs and concerns of their members, particularly as elder Americans struggle to maintain a voice in Washington and in the general public.

I have personally belonged to AARP for a number of years and, having been a longtime member (15+ years), am intimately familiar with their activities, services and policies. Additionally, as an owner of an insurance agency for over thirty years – with extensive experience in that field – my professional background gives me a unique perspective on the questions surrounding the conduct of AARP. Many of the specific issues covered in the April 1st hearing are directly in line with my professional understanding and are worthy of additional comment.

Primary Issues of Concern

With regard to the tax issues; the AARP Foundation is the charity arm of their conglomerate, covered by Section 501 (c)3 of the Code. That Section has clear guidelines and specifications as to allowable transactions. AMAC feels the Internal Revenue Service should conduct a proper investigation and issue a report to the public on the matter of AARP's allowable transactions.

The most important question is the potential for the intermingling of resources between the two types of organizations AARP operates under. In order for the public to have faith in organizations like AARP and others, including AMAC, they must be assured that their activities are being properly conducted in a fair and honest manner. AMAC salutes the work of the House Committee on Ways and Means in that regard.

In all fairness, AMAC sees nothing wrong with AARP offering various insurance products to their members. We agree that the income from insurance royalties does help in keeping the cost of membership dues at a low level, thus enabling low income folks to join the organization.

That being said however, our objection to AARP centers on the manner in which the organization conducts its business and what we see as an increasingly quid pro quo alliance between AARP and the federal government on particular issues. More specifically, the political agenda advanced by AARP – communicated in their various media statements and publications – serves to produce a direct increase in income from the laws they endorse. Compounding that, it is our opinion that the laws AARP have supported will actually, unfortunately, result in severe financial cost to Americans aged 65 and older, the very people that AARP was chartered to represent and protect!

The Affordable Health Care Act for America serves as the most salient example of this, the introduction and passage of which was supported wholeheartedly by AARP. That law contains provisions that will reduce the government's contribution to Medicare Advantage Plans, causing millions of older citizens to be faced with an increased cost in their premiums or, in some cases, the total elimination of their plans.

Medicare Advantage plans cost very little or nothing to most of the policyholders and they fill most of the gaps of coverage in basic Medicare. In order to replace that coverage, those people will have to purchase MediGap policies, which are plans sold by insurance companies to cover the medical costs not covered by basic Medicare. Typically, there is a deductible in the Hospital coverage (Part A) and a 20% copayment in Medical services from doctors (Part B). These MediGap policies are also called Supplemental Medicare policies and cost between two and three thousand dollars per year on average. Thus, older Americans, mainly low income senior citizens, will now have to face a difficult financial burden because of the lobbying efforts of AARP.

Critical to note is that AARP is the largest supplier of MediGap policies in the United States and according to public records, AARP receives the largest share of its income from royalties received from the sale of these policies. Therefore, it is very likely that AARP will increase their sales of MediGap policies producing millions of dollars of additional income to their organization.

Unless adequate changes are made to the law, AARP could stand to attain a significant financial advantage as a result of these MediGap provisions in the Affordable Health Care Act for America. At the very least, these connections raise a serious ethical issue that should be addressed by the committee or any other relevant body.

Equally serious is the failure of AARP to have notified their existing Supplemental Medicare policies that Medicare Advantage Plans were available that could have saved them thousands of dollars each year.

While it can be clearly shown that AARP did send various mailings to their members about the availability of Medicare Advantage plans, the method of communication did not include specific information showing members their potential individual savings. Nor was an easy-to-understand offer comparing a Medicare Advantage plan to a Supplement plan – which would show specific cost differences – ever sent to their members. As an AARP member, I can testify that I know this failed to occur. And in our opinion, policy holders of AARP's supplemental plans should have been sent a personalized quote with details comparing the two plans side by side, including a price comparison.

Furthermore, AMAC feels such a comparison would have resulted in a substantial number of people switching from a Supplemental plan to a Medicare Advantage plan. As an example, an 87 year old widow from Ocala, Florida who's only income was from Social Security saved approximately $3,000 per year by switching from an AARP Supplemental policy to an AARP Medicare Advantage policy.

AMAC understands that there are certain times a Medicare Advantage plan may not be in the best interest of the Medicare beneficiary; this may be due to eligibility issues, doctor's acceptance guidelines or other factors. Nonetheless, AMAC feels it was incumbent upon AARP to have made the effort to provide the best plan to each of their members. In fact, given the potential gains for AARP in the Affordable Health Care Act for America, one is left to wonder if, in not providing all of its members an objective analysis of both Supplemental plans and Medicare Advantage Plans, AARP was trying to secure a financial advantage at the expense of members' interests. In our view, at the very least, AARP could have made a more complete effort to conduct proper due diligence on these matters.

One final issue worthy of scrutiny – though it pertains to general business decision-making – is the decision of AARP's management to sponsor an automobile racing car with NASCAR, an effort with a price tag of $25 million dollars a year. While we understand that the announced reason for the sponsorship was to publicize the efforts of AARP's program against hunger for the elderly, we question whether it would have been more effective just to use that money to purchase lunch and dinner for the poor. Breaking down the numbers helps make the point. For example, at $10 per meal, over two and a half *million* meals could have been provided had the money not been allocated towards a racing team sponsorship.

Important to consider in all of this is perception. Simply put, if the advertising benefit received from the Foundation's expenditure reflects upon the central AARP Corporation – as most folks are not aware of the difference between them – it *could be* interpreted that the use of those funds to sponsor a racing car *may* have been improper, or, at the very least, not in keeping with the best interests of AARP members. Again, this is merely a point to highlight how specific monies could be used for more direct outcomes, and to illustrate a difference in approach between AARP and other senior advocacy organizations. It should also be noted that the 501 (c)4 corporation, which is the form of their main organization, is a much more complex entity – and therefore, AMAC feels the Committee should rely upon the information provided to them by the IRS.

In conclusion, AMAC applauds any further effort by the House Committee on Ways and Means to address or investigate whether or not AARP stands to net increased financial gain via provisions in the Affordable Health Care Act for America law or through any other channels that may not be in accordance with the interests of elder Americans, retirees or senior citizens.

David C Stanley

March 31, 2011

To: House Ways and Means Health Subcommittee Chairman Wally Herger (R-CA) and Oversight Subcommittee Chairman Charles Boustany, Jr, MD (R-LA)

From: David C. Stanley

13942 Valley Country Dr.

Chantilly, VA. 20151

Home Number 703-818-9733

Cell Number 703-626-3140

Email: dstanley1@cox.net

Subject:

Hearing on AARP's Organizational Structure and Finances

Dear Sirs,

I want to thank you so much for holding this hearing. As a retired health care executive, I say that it is about time that someone got the facts and looked into this organization.

I was a member from when I turned fifty in 1996 until their support for Obama Care. I cancelled my membership after this support, as I became convinced that their purported reason for being "supporting and advocating for seniors" was not in fact what they were doing.

It was obvious, at least to me, that there is a substantial conflict of interest in their stand and support for health care reform and that the use of the funds that I was paying in dues were being used for reasons other than supporting seniors. As I looked further into their operations from my limited point of view, it is clear that they are supporting socialist agendas that have nothing to do with an aging population. I feel as if I was misled about their stated goals all of these years. I admit to being naive for having blindly subscribed to an organization that so blatantly is a for profit organization whose agenda is clearly profits. They have lied to the public with their advertizing and do not clearly identify and explain in advance their true mission. Further, it appears that spending in this organization is out of control and far exceeds both in salaries, benefits and expense reimbursement what you would expect from a non-profit organization. I hope that you will delve deeply into where all these funds are going and expose this organization for what they really are.

I can only hope that if they get any tax dollars that it be stopped and at the very least that their tax exempt status is revoked.

I am not the only person I know who has cancelled their membership. It would be nice to know exactly how many seniors they lost as a result of what was their partisan support for President Obama and his progressive agenda. It is bad enough the financial burdens we seniors as well as others have had to endure during the last several years without having an organization like this, who are supposed to watch out for our interest turn against us.

Thanks again for looking into this matter and really protecting the interest of seniors.

Respectfully,

David C. Stanley

The 60 Plus Association-The Honorable Mr. Zion

The 60 Plus Association

515 King Street • Suite 315 • Alexandria, VA 22314
Phone 703.807.2070 • Fax 703.807.2073 • www.60Plus.org

Kill the Death Tax. Protect Social Security. Energy Security.

James L. Martin	*Amy N. Frederick*	*Rep. Roger Zion (R-IN, 1967-75)*	*Pat Boone*
Chairman	*President*	*Honorary Chairman*	*National Spokesman*

April 15, 2011

Re: Subcommittees on Health and Oversight Hearing on AARP's Organizational Structure and Finances

Dear Chairman Herger and Chairman Boustany:

I watched, with great interest, your AARP joint sub-committee hearing of the House Committee on Ways and Means held Friday, April 1, 2011 and broadcast by C-SPAN. You are to be commended.

As you may recall, I served in the U.S. House of Representatives, elected to the 90th Congress (along with Congressman George Herbert Walker Bush from Houston) and was re-elected three times from Evansville, Indiana. I have also been honored to serve as Honorary Chairman of the 60 Plus Association, a post I have held for 19 years. Now "semi-retired" at age 89 years old, I stay current on both national and international events. Thus, I noted with interest that 60 was referenced several times during your hearing and I because I jealously guard the image of this organization, I submit this statement in order to set the record straight.

In 1992 Jim Martin founded the 60 Plus Association because he recognized the need for an organization solely dedicated to advocating for senior citizens who support traditional values such as limited government, fiscal restraint, less burdensome taxes, and a strong commitment to our Constitution. I first met Jim in 1964 when he was Administrative Assistant to then-Congressman Edward J. Gurney (Winter Park, FL), who was later elected in 1968 to the U.S. Senate. Prior to his service as Chief of Staff, Jim came to Washington in 1962 as a newspaper reporter. When he founded 60 Plus as a counter to the well-known and liberal AARP, Jim asked me if I would serve as Honorary Chairman, his premise being that he wanted someone around, as Jim said, for the "long haul". I was then 70 and have served proudly these past 19 years.

So, I believe I am well qualified to respond to these misconceptions about this fine organization: For example, Congressman Ron Kind (D-WI) stated at your hearing that 60 Plus has zero dues paying members, a description often bandied about by some of his liberal friends leaving the erroneous impression that 60 Plus thus has no supporters other than, as Mr. Kind said, only 'rich people'.

Technically, it is true 60 Plus has no 'dues paying members'. From its creation, no dues have been assessed to any person wishing to be affiliated with 60 Plus, because many of the over 7 million senior activists we represent are on limited incomes, and so many of them struggle daily to meet the costs of basic living. Therefore, we do not feel that they must 'pay to play'; even the poorest seniors amongst us deserve to have their voices heard and their interests considered.

Further, to respond to Mr. Kind's assertion that our organization is funded by the 'rich', while there are probably a sprinkling of 'rich people' amongst our over 300,000 donors, 99.9% of our donations are from those whose 'widow's mites' come out of their social security incomes, and average, if you will, approximately $25 each. Rich, indeed!

To another false assertion, that 60 Plus should also have to reveal its 'profits', that is easy to answer. 60 Plus has no profits! Unlike the AARP, 60 Plus does not hawk products for a profit. At the outset, 60 Plus made that commitment, to sell no product. Thus, we are not a money-making conglomerate; we are strictly an advocacy organization. Therefore, 60 Plus does not have to choose between profit and ideology.

Perhaps Mr. Kind's comments were motivated by having been 'called on the carpet' in a TV ad by 60 Plus for having, in our view, betrayed seniors by supporting President Obama's health care act which cut Medicare by over $500 billion, created the Independent Payment Advisory Board (IPAB) that will lead to medical providers dropping out of Medicare, eliminates the popular Medicare Advantage program for most seniors, and will jeopardize seniors' access to doctors and facilities. Seniors in record numbers continue to oppose this law that was rammed through without the support of the voters.

Another misconception stated over the course of the joint committee hearing was that AARP was never previously investigated, referring specifically to the fact the AARP sided with the Bush Administration in 2003 on its Part D prescription drug benefit. However, in 1995, the AARP was indeed called before Congress because of the controversy over the huge profit AARP makes from insurance sales, the same irregularities that are now being challenged by both of your Health and Oversight Sub-Committees in 2011. The record will show that Senator Alan Simpson held a hearing that year and later 60 Plus' Jim Martin testified, along with Senator Simpson, at a House hearing, chaired by your former colleague, Congressman David McIntosh (R-IN).

At that time, AARP was nailed by the IRS for $135 million in UBIT (unrelated business income taxes). AARP claimed its payment was 'in lieu of taxes'. At the same time, AARP was hit with an additional $5 million penalty for misuse of its lower-rate non-profit bulk mail permit, settling that penalty for about $2.5 million. Interestingly, these UBIT taxes and postal penalties were easily paid by the AARP by "cutting checks" for the entire amount. That is quite a lot of readily available money for a non-profit. Thus it is not surprising that the national headquarters for the AARP is often referred to as their "Taj Mahal".

It is indeed unfortunate that Congress did not clearly distinguish between what is royalty income and what is commission. We do support the efforts of these two sub-committees to determine if there are indeed irregularities in the tax status of AARP and if there are, corrections should be implemented.

With the support of our senior citizen activists, 60 Plus remains proudly committed to the values important to this nation's seniors and soon-to-be seniors. That is, protecting social security, Medicare and Medicaid; entitlement programs seniors have earned by dutifully paying into all their working years.

Sincerely,

Roger H. Zion
Former Member of Congress 1967-1975 Evansville, IN
Honorary Chairman
The 60 Plus Association
515 King Street Suite 315
Alexandria VA 22314
703.807.2070
memz@webtv.net

The 60 Plus Association is a 19-year-old nonpartisan organization working for death tax repeal, saving Social Security, affordable prescription drugs, lowering energy costs and other issues featuring a less government, less taxes approach as well as a strict adherence to the Constitution. 60 Plus calls on support from over 7 million activists. 60 Plus publishes a newsletter, SENIOR VOICE, and a Scorecard, bestowing awards on lawmakers of both parties who vote "pro-senior." 60 Plus has been called, "an increasingly influential senior citizen's group" and since 1992 "the conservative alternative to the AARP."

The 60 Plus Association-Mr. Martin

The 60 Plus Association

515 King Street • Suite 315 • Alexandria, VA 22314
Phone 703.807.2070 • Fax 703.807.2073 • www.60Plus.org

Kill the Death Tax. Protect Social Security. Energy Security.

March 30, 2011

Re: Subcommittees on Health and Oversight Hearing on AARP's Organizational Structure and Finances

Dear Chairman Herger and Chairman Boustany:

Senior citizens will rejoice over your joint subcommittee hearing regarding the AARP and its money-making operation that now grosses over $1 billion dollars annually!

I speak from experience, having attended a 1995 hearing by then-Senator Alan Simpson (R-WY), and a similar House subcommittee hearing chaired by Representative David McIntosh (R-IN) where I testified along with Senator Simpson. The House hearing focused on halting the granting of billions of tax dollars to the AARP and dozens of its allies.

In fact, the *Wall Street Journal*, in a June 1995 editorial, referred to a '$39 billion dollar dirty little secret' under the headline Welfare for Lobbyists, pointing out that for years dozens of groups have been funded by the taxpayer. We believed it was wrong then and we believe it is still wrong, using taxpayers' hard-earned money to promote agendas that the public may disagree with.

Unfortunately, however, if the past is prologue, your hearing, which I strongly applaud, will put a spotlight on the AARP for only a day or two. Then, with so many issues confronting you as national legislators, your focus will regrettably shift to other world events.

AARP MEMBERS FLOCKING TO 60 PLUS

However, I submit for the record some of my organization's differences with the AARP. As a matter of fact, I founded 60 Plus in 1992 to counter the big-government tilt of the AARP, to bring some balance to their leftward stance. Now in our 19th year, we have had an effect, as we see more and more seniors turning away from the AARP.

For example, in 2009 as the health care reform debate captured the nation's attention and seniors became increasingly upset with the AARP, we at the 60 Plus Association added 150 temporary telephone operators to handle the crush of callers who 1) were leaving AARP, and 2) were seeking town hall meeting information. Yes, we've also received tens of thousands of emails as seniors turn more & more to this method of communicating!

As 60 Plus spoke out in 2009 and 2010 against Obamacare, hundreds of thousands of disgruntled AARPites who feel betrayed left the AARP. Many of them have transferred to the 60 Plus Association. While AARP has publicly back-pedaled on its position of backing Obamacare, the reality is, AARP was clearly in bed with the Obama Administration.

AARP Two-Step

AARP was for Obamacare before being against it. At 60 Plus we call that the "AARP two-step." One step forward before they're called on the carpet, then two steps back as they deny.

60 Plus, unlike some others, is not a Johnny-come-lately to the exposure of AARP's liberal big government policy.

In 1995 I testified, along with Senator Simpson, before a House panel about the AARP's taxpayer-subsidized enterprise. Senator Simpson had held his own hearing earlier.

Also in 1995, since a picture can be worth a thousand words, 60 Plus produced a bumper sticker that reads, AARP: Association Against Retired Persons. AARP profits substantially by commission from a variety of money making ventures, **while also receiving hundreds of millions of taxpayer dollars over the years**, and promoting the agenda and programs of big government and high taxes which hurt, not help, seniors. **(60 Plus, because of the demand, printed the 2009 version of our 1995 bumper sticker).**

The AARP was founded with great promise for retirees. In 1947, Ethel Percy Andrus, a principal, established the National Retired Teachers Association (NRTA) and, in a unique partnership with insurance executive Leonard Davis, formed AARP in 1958. Davis provided insurance policies for NRTA members, and made a personal (though highly controversial) fortune for himself in the process.

Charles R. Morris, examining the history of AARP in his book AARP: America's Most Powerful Lobby and the Clash of Generations (New York: Random House/ Time- Life Books, 1996), revealed that, for much of its existence, AARP was under the control of Davis thus **"operating as a sales network to hawk very high-priced insurance and a host of other Davis-created products to old people."** (p. 10) A source of controversy, Davis abandoned his contacts with AARP in the early 1980s.

Clearly, Ms. Andrus was well-intentioned in wanting to provide much needed, low-cost insurance to retiring teachers, and clearly her original philosophy that the AARP would seek no federal largesse is to be admired and applauded.

But somewhere down the line, probably after her tenure, the lure of the almighty dollar proved too much and AARP was under a microscope in the 1970's and 1980's when Mr. Davis was sent packing to Florida, with much of his, according to press reports, '$160 million fortune intact.'

But the full extent of the powerful empire built by AARP did not come to light until hearings by Senator Simpson and Congressman McIntosh. The 1995 investigation of the finances of AARP provided a major bombshell.

The organization is a tax-exempt group which collects taxpayer funds, about $86 million one year alone, from direct grants for such programs as tax counseling for the elderly to providing jobs for seniors under the "Senior Environmental Employment Program." Simpson rightfully raised the question over the use of a nonprofit status for a group which makes millions selling its members medicine, insurance, and other products.

Those hearings shined the light on an organization which claims to represent senior citizens but in reality represents big government, helped by taxpayer subsidies.

AARP is a huge money-making machine of Fortune 500 proportions. The Internal Revenue even looked into the AARP non-profit status and after some "negotiations" the AARP agreed to pay $135 million 'in lieu of taxes' on its money-making ventures conducted between 1985-1993. An additional payment of

$15 million was made in 1994. In the latter year, AARP paid the U.S. Postal Service $2.8 million to settle a $5 million fine on accusations that it improperly used its non-profit mailing privilege. The great irony is that these payments were made to the IRS and the U.S. Postal Service at the same time the group was receiving hundreds of millions of dollars from the taxpayers over those years.

Loss Leader Item

AARP can operate on a low membership annual dues of around $15 per member because of the profits it gets from its other activities and its taxpayer funding. In fact, the $15 is called a 'loss leader item' in the business world. It gets you in the door at a nominal amount, but profits are amassed with the products it sells you. The Wall Street Journal summed it up well in the title of its editorial (June 23, 1995) about the AARP and other groups who thrive on taxpayer funds such as the old National Council of Senior Citizens and The National Council on Aging: "Welfare for Lobbyists." The NCSC (now the ARA—Association of Retired Americans) is led by former union officials and for years was so far to the left it endorsed no Republicans, not even Senator Arlen Spector (R-PA) who had actively campaigned for union support.

AARP has been consistent in its efforts to promote more federal spending and bigger government. They were active promoters of the Medicare Catastrophic Coverage Act (1988) which became law; and when seniors found out the outrageous bill they were paying for this new government bonanza, their protests became so strong that Congress took the unheard of action toward a seniors program: it repealed it the next year (1989). AARP found seniors picketing their headquarters with "Down with AARP!" signs because of the organization's support for it. (Opposition was so strong that one can still recall pictures of one of the architects of this bill, then Chairman of the House Ways and Means Committee Dan Rostenkowski, fleeing senior citizens in his solid Chicago Democratic district who chased after him in protest after a meeting in August of 1989!)

As a result of its political stance, the AARP has been losing members who protest their liberal slant but they continue an aggressive campaign of recruiting new members (even lowering the eligibility age for membership to age 50). Still the 33 million members of AARP represents real political clout, a leverage used to promote big government, encourage more government spending, and opposing all efforts to reduce government spending, all to the detriment not only of seniors living on fixed incomes but for all taxpayers.

AARP Tilts Left

The irony is that most AARP members in the 50 states have only a vague notion of AARP's political agenda which tilts decidedly to the left and most AARPites join for the aggressively hawked benefits. **It's hard to resist a sales pitch that touts AARP's buying power based on 33 million members,** until these hearings focused on the fact that not only did AARP not beat competitive insurance plans but made a tidy profit, of millions on all the products they offer their members as 'the lowest available price' thanks to an apparent purchasing power due its massive membership. Lots of cutting up of AARP cards ensued!

For example, according to the 2009 figures, AARP made nearly $250 million from dues but also over $650 million in monies it received from lending its name to private insurers. This $900 million or so is the bulk of well over $1.2 billion dollars AARP had in operating revenues in 2009. AARP stands to benefit immensely in selling Medigap policies if and when Medicare Advantage is eliminated. I predict more AARP cards will be cut up as word gets out about these obscene profits as reflected in these 2009 figures.

AARP has a number of state groups or affiliates assisting them in their mission. In the Simpsons hearings it was brought out that then-Executive Director Horace Deets received a salary of $292,000 (more than the pay of members of the President's Cabinet and Members of Congress!) plus $46,000 in a benefits package while 19 other AARP executives received over $100,000 each in 1995.

Are all seniors groups out for big government and taxpayer funds? Not so.

The 60 Plus Association stands for free enterprise, less government and less taxes for seniors and neither takes nor seeks federal grant money. We have been called by one source "an increasingly influential lobbying group for the elderly…often viewed as the conservative alternative to the American Association of Retired Persons (AARP)."

Taxpayers -- and especially senior citizens — must realize that the AARP does not represent the best interest of people but serves as a mouthpiece for those forces pushing for expanded government. Nonprofit organizations with their own political agenda of liberalism which receive federal funds should not be subsidized by taxpayers for lobbying. President Thomas Jefferson said it so well: "to compel a man to furnish funds for the propagation of ideas he disbelieves and abhors, is sinful and tyrannical." It is time an aroused electorate put a stop to this abuse.

Sincerely,

James L. Martin
Chairman
The 60 Plus Association
515 King Street Suite 315
Alexandria VA 22314
703.807.2070
jmartin@60plus.org

The 60 Plus Association is a 19-year-old nonpartisan organization working for death tax repeal, saving Social Security, affordable prescription drugs, lowering energy costs and other issues featuring a less government, less taxes approach as well as a strict adherence to the Constitution. 60 Plus calls on support from over 7 million activists. 60 Plus publishes a newsletter, SENIOR VOICE, and a Scorecard, bestowing awards on lawmakers of both parties who vote "pro-senior." 60 Plus has been called, "an increasingly influential senior citizen's group" and since 1992 "the conservative alternative to the AARP."

○