

# WHAT'S IN THE ACE ACT, S.1981/H.R.6595?

Senators Angus King (I-ME) and Charles Grassley (R-IA) have introduced a bill that would suppress charitable giving. The title of the bill, the Accelerating Charitable Efforts (ACE) Act, S. 1981, suggests the legislation will increase resources for charities. However, the provisions within the bill would do the opposite—harming the exact charitable organizations and communities they seek to help. In the House, a companion bill, H.R. 6595, was introduced by Rep. Chellie Pingree (D-ME) and Rep. Tom Reed (R-NY) in February 2022.

## What's a DAF?

Donor-advised funds, or DAFs, are charitable giving accounts hosted by national sponsoring charities or community foundations. Every dollar that goes into a DAF is immediately and permanently committed to charitable giving.

## KEY THREATS

- DAFs could face a punitive 50% tax if they don't meet an arbitrary deadline
- Private foundations are significantly and unnecessarily restricted
- Donor privacy is under attack
- Community foundations get a complicated, narrow carve-out they did not even ask for

## KEY PROVISIONS IN ACE ACT (S. 1981 /H.R. 6595)

### DAFs could face a punitive 50% tax if they don't meet an arbitrary deadline

- The legislation imposes a 15-year payout requirement on DAFs.
- DAFs not meeting the arbitrary payout deadline would face a steep 50% tax on the contributions (and on any appreciation of those contributions) that have not been paid out after that time. Aside from being extremely punitive, this would create an onerous administrative tracking burden.
- Alternatively, for donors who want more than 15 years to distribute DAF funds (up to 50 years), the legislation would delay the long-standing charitable income tax deduction, a major incentive for charitable giving.

***This payout requirement would limit the ability for donors to allow their funds to grow over time and save up to make a larger gift, at a detriment to the charities they support.***

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## Private foundations are significantly and unnecessarily restricted

- Private foundations would be generally prohibited from counting DAF gifts toward their required 5% payout rate.
- Family foundations would be disallowed from including the salaries and expenses of working family members as administrative expenses for purposes of the 5% payout requirement.

*These provisions ignore the many valid and useful ways that private foundations may use DAFs to further their charitable missions and arbitrarily discriminate against family members working for foundations.*

## Donor privacy is under attack

- Private foundations giving to DAFs would be required to report annually the amount contributed to a DAF, the DAF sponsor, and the “donation advice” given, if any.
- For the public support test, the bill would treat all anonymous DAF contributions received from sponsoring organizations as coming from one person—whether that’s the case or not (potentially harming the ability of nonprofits to meet public charity status under the tax code).
- Anonymous contributions of non-cash assets would be disallowed by requiring a formal acknowledgment that includes the name of the donor.

*Such forced disclosure of some donations and the intent behind them may threaten the safety and well-being of donors as well as chill charitable giving overall.*

## Community foundations get a complicated, narrow carve-out they did not even ask for

- In order to even qualify for the carve-out, a community foundation must serve an area no larger than four states and hold at least 25% of their assets outside of DAFs. Donors with DAFs at community foundations cannot have DAFs of more than \$1 million or the charity that houses the DAFs must pay out 5% of their DAFs’ value each calendar year.

*According to the Community Foundation Public Awareness Initiative’s statement on the on the Senate bill: community foundations “didn’t ask the Initiative to include a carve-out and we worry it could negatively impact our valuable partnerships with local charities and other philanthropies. Like many of the other provisions in the proposal, we fear the unintended consequences of a carve-out would outweigh any potential benefits.”*



**S. 1981/H.R. 6595 IS A SOLUTION IN SEARCH OF A PROBLEM. NOW IS NOT THE TIME TO RESTRICT THE CHARITABLE SECTOR FROM MEETING THE NEEDS OF OUR COMMUNITIES BY USING A WIDE RANGE OF GIVING VEHICLES.**