



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

MEMORANDUM

To: Reporters and Editors
Re: Finance Committee Report on The Nature Conservancy
Da: Tuesday, June 7, 2005

Sen. Chuck Grassley, chairman of the Committee on Finance, today made the following comment on the Finance Committee's report on The Nature Conservancy. The report is available at finance.senate.gov under "hearings." The committee's hearing tomorrow will explore The Nature Conservancy report and concerns regarding land donations and the tax code in general.

"The report and attached documents show that The Nature Conservancy at times approaches tax matters affecting it and its donors in an aggressive manner that can result in substantial tax benefits – no different than many large corporations. This is the reality that Congress must bear in mind as we consider the first broad reforms of the charitable laws since 1969. Current law has not kept up with the sophistication and complexity of many of today's charities. Because of that, there are legitimate concerns being raised that more and more charities may not be always acting as Congress originally intended and in a manner that justifies their tax-exempt status to the public. If Congress fails to take action in reforming tax-exempt laws and charitable donations, it means that the rest of the taxpayers are going to have to shoulder a heavier burden to pay for our government.

"This report is significant because it provides the public a window into the workings of not just The Nature Conservancy but large charities in general. The report makes it clear that we need to forget the image of charities just ringing a bell for money and recognize the reality that these are organizations that often engage in sophisticated tax planning and complex transactions. An example is the emissions credit arrangements in which corporations make payments to The Nature Conservancy in exchange for potentially receiving tradable emissions credits. Sophisticated and complex transactions are not in of themselves inappropriate – the problem is that the law governing charities is not equally sophisticated. Therefore, there may be a mismatch at times between what charities are actually doing versus what the public expects them to do.

"Since the Senate Finance Committee announced its investigation, The Nature Conservancy has implemented many reforms relating to governance and donations of land and conservation easements. This report makes it clear that such reforms were necessary, and I commend The Nature Conservancy for making them. Yet, in several areas, such as related party transactions, public disclosure, conservation buyer transactions and the reporting and payment of taxes, my hope is that this report will encourage The Nature Conservancy to consider additional reforms.

"I have been a proponent of encouraging land conservation and certainly The Nature

Conservancy has much to be proud of in this area. However, this report highlights that there are real shortcomings in current law in many areas, including modifications, monitoring and valuation of easements, and the circumvention of section 170(h) requirements. For example, donors of easements and The Nature Conservancy engaged in dozens of modifications of those easements without notification to the IRS. This must stop. My intention is to work with Senator Baucus on finalizing a package in the next few weeks that will encourage land donation while addressing the abuses.

“This report hits home the fundamental point that a charity’s board of directors should oversee an organization’s operations -- and not just act as figureheads. There are more than 1 million charities that we can’t reform one investigation at a time. This is why the Finance Committee must consider basic 101 governance requirements.

“Transparency and full disclosure are cornerstones in reassuring the public that charities -- and those who donate to them -- deserve the favorable tax benefits they receive. This report shows there is much work that charities and the IRS need to do to make sure that public documents provide a full, accurate and complete picture of what is going on with today’s nonprofits. Time and again, The Nature Conservancy’s Forms 990 provide only bare bones information, if any at all, regarding its participation in transactions with insiders as well as unique and complex programs such as the emissions credits arrangements and its conservation buyer program.

“While The Nature Conservancy has taken steps to improve, we must see changes in the law and regulations that ensure across-the-board that the tax code provisions designed to encourage conservation are serving their intended purpose. It is important to bear in mind that the issues raised regarding easements and land donations are not limited to The Nature Conservancy. Tomorrow’s hearing will explore in detail many of the problems and possible solutions to improving current law.”