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A Key Charity Watchdog Leaves His Post

By Pablo Eisenberg

In recent years, Sen. Charles Grassley, Republican of Iowa, has used his role as a leading member of the Senate Finance Committee to serve as the conscience of charitable organizations. The committee's investigations of inappropriate nonprofit behavior, Congressional hearings, legislative proposals, and public statements have forced nonprofit groups to become more open and accountable.

Dean Zerbe, who left his post as a top aide to Senator Grassley at the end of February, was, with Mr. Grassley, the heart and soul of the committee's efforts.

The energy, intelligence, and commitment he brought to his job — he calls it a "passion for integrity" — infused Mr. Grassley's vision and sense of fairness with a vitality and practicality that resulted in productive action. Rarely has Congress produced such an effective duo — the ethical politician and the trusted but independent-minded staff member. They were a splendid team, both while Senator Grassley was the chairman of the committee when the Republicans were in charge of Congress and as a senior committee member since the Democrats won control of the Senate in 2006.

The hearings on nonprofit accountability that the committee began in 2004, prompted by the growing foundation scandals uncovered by journalists, sent a chill throughout the nonprofit world that was reminiscent of the aftermath of the 1969 Tax Reform Act, when Congress put strict controls on how grant makers used their assets.

Fearful that government would once again place limits on nonprofit activities and disrupt their ways of doing business, foundations and charities spent countless days and resources trying to convince the committee that the nonprofit barrel had only a few rotten apples and that the system needed only very minor regulatory tinkering.

The anxieties of nonprofit leaders were further heightened a few months later when the committee showed it was serious about getting rid of abuses. It proposed and persuaded Congress to pass legislation designed to curb the excessive tax deductions many donors took for their gifts of intellectual property to charity as well as their contributions of used cars, measures that saved the federal treasury billions of dollars.

The real sign of just how sweeping a change Mr. Zerbe and his colleagues thought was needed came in the summer of 2004, when Senate aides produced a comprehensive discussion paper touching on many of the improprieties and problems facing the nonprofit world.

Among them were the lack of openness and accountability by many nonprofit groups, sweetheart deals and other forms of "self-dealing," the loose regulation of donor-advised funds and supporting organizations, the lax oversight and lack of resources for law enforcement given to the Internal Revenue Service and the state attorneys general, inappropriate compensation of trustees, inadequate governance and management, and the paucity of information about whether nonprofit groups were accomplishing anything with donated money.

While many of the paper's recommendations had merit, others did not.

But what the paper succeeded in doing was to stir a hornet's nest of spirited discussion and fierce debate. Many nonprofit officials and their representatives in Washington were mostly annoyed and angry. For many, Mr. Zerbe became the "bad guy," out to undermine foundations and other nonprofit organizations.

"Dean Zerbe was the enemy of foundation arrogance," says William Schambra, director of the Center for Philanthropy and Civic Renewal at the Hudson Institute. "Using his position to ask common-sense questions, he was able to remind them that they don't possess superpowers, and are still finally accountable to the political order. We'll miss his willingness and ability to do that."

Unfazed by the response he got from charities and foundations, Mr. Zerbe reached out to all parts of the nonprofit world, calling for observations, comments, and recommendations.

He invited Independent Sector and other organizations to create forums of nonprofit organizations to discuss accountability standards for nonprofit behavior, as well as to recommend whatever measures might be needed to strengthen charitable groups. It was an unusual departure from tradition for a Senate committee undertaking oversight activities.

After a long process, and at a cost of some \$4-million, Independent Sector produced a lengthy report and guidelines for ethical behavior that were heavy on self-regulation approaches and light on new and stronger measures to ensure nonprofit groups followed the law.

Throughout the hearings, Mr. Zerbe was intrepid as he barnstormed meetings of foundations and charities to get across his message: that nonprofit organizations had to change if they wanted to maintain their integrity, that public accountability was the foundation on which all nonprofit groups had to build. In some settings he came under intense criticism; in a few he was vilified. His efforts were aided by journalists with whom he established a close rapport.

At one session at the Philanthropy Roundtable, the trade association for conservative foundations, he was denounced and even booed by some of the people in the audience. While more discreet than their conservative colleagues, some progressive foundations and charities also denounced his efforts, often behind his back, condemning his zeal and proclivity for government interventions.

He took all this criticism with a grain of salt, knowing, as he told me, that it was all part of the political process.

When asked what he believes are his most notable achievements at the committee, he cites the oversight that he and Mr. Grassley conducted on some of the major nonprofit groups the country — the American Red Cross, the Nature Conservancy, and the Smithsonian Institution.

Not only did the committee's investigations lead to major changes at those institutions but they also had a substantial impact on all nonprofit organizations, reminding them that they have an obligation to be fiscally sound and publicly accountable.

The hearings and investigations of nonprofit hospitals and university endowments are also at the top of the list of achievements he cites, and indeed they have had a major impact.

Using the bully pulpit — by giving speeches, holding news conferences, and seeking out news-media coverage — Mr. Grassley and Mr. Zerbe have pressed nonprofit hospitals to cut inappropriate expenditures and expand their coverage of low-income patients, while pushing wealthy universities to spend more of their endowment earnings to lower tuition costs and provide more financial aid to needy students.

The committee is exploring whether to require universities and other nonprofit organizations to distribute a minimum percentage of their endowments each year. And now the committee is demanding that televangelists

who propagate the prosperity doctrine, including lavish lifestyles for themselves, turn over their books and make public their financial records.

The Senate Finance Committee's work over the past five years, and Mr. Zerbe's role in these efforts, represent an extraordinary record of accomplishments.

As Eugene Steuerle, a senior fellow at the Urban Institute, said, "Dean constantly challenged both the charitable sector and those who profit and earn money from that sector. He was a true civil servant, trying to find the right answer, even when it meant attacks from those who defined charitable interests as their own political interests. I'll miss him."

Steve Gunderson, president of the Council on Foundations, who often disagreed with Mr. Zerbe, nevertheless acknowledged that he played an important role: "His commitment to making sure philanthropy served the common good, and his knowledge of our field, helped us more than we might realize, and certainly more than we are willing to admit."

And Rick Cohen, national correspondent for *The Nonprofit Quarterly* and former executive director of the National Committee for Responsive Philanthropy, sums up Mr. Zerbe's work, stating that "he has been uniquely influential in making the accountability of the nonprofit sector an issue to be addressed, not swept under the rug."

In general, conservative critics of Mr. Zerbe were less forthright. At least five whom I contacted were not willing to comment for the record, a response that Mr. Zerbe says he found "astounding and somewhat annoying."

He is leaving the Senate Finance Committee to become the national managing director at the Alliant Group, a specialty law firm that provides tax advice to accounting firms and their clients. His remuneration will be substantially greater than the money he received as a public servant.

Yet one can detect a certain wistfulness in his demeanor. Hard-nosed as a legislative investigator, he nevertheless has a soft side that encompasses a passion for nonprofit organizations, fairness, and justice.

He bemoans leaving the Senate because "there is still so much to do." And, he adds, he may be back in a few years.

Many of us hope he will.

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