

**BASIS FOR IRS INVESTIGATION INTO WHETHER AMERICANS FOR
PROSPERITY FOUNDATION IS ELIGIBLE FOR TAX-EXEMPT STATUS
UNDER SECTION 501(C)(3)**

This attachment sets forth the basis for the complaint against the Americans For Prosperity Foundation (“AFPF”), that AFPF is participating in a political campaign on behalf of a candidate for public office in violation of IRC section 501(c)(3), as required in Section 4 of Form 13909.

INTRODUCTION AND SUMMARY OF CHARGES

On January 17, 2012, a group called United Wisconsin filed an estimated 1 million signatures seeking the recall of Wisconsin Governor Scott Walker. On February 8, 2012, the *Washington Post* reported that the AFPF confirmed it had spent \$700,000 to run an ad to appear during March 2012 on statewide television stations in Wisconsin defending Governor Walker’s signature legislative achievement, a budget-related law known as Act 10 that curtails collective bargaining for public sector employees.¹

This ad is part of an AFPF campaign called “It’s Working Wisconsin” launched in October 2011 shortly before United Wisconsin began gathering these signatures.

The “It’s Working Wisconsin” campaign constitutes an unlawful activity by a section 501(c)(3) organization to intervene in Governor Walker’s political campaign to defeat the recall. As shown below, the AFPF’s principal donors, David and Charles Koch, donated substantial funds to Governor Walker’s 2010 campaign for governor, were involved through AFPF employees in the crafting of Act 10, and through the merged operations of AFPF and its related section 501(c)(4) group, Americans For Prosperity (“AFP”), helped ensure passage of Act 10. They are now touting its enactment through the “It’s Working Wisconsin” campaign in a manner nearly identical to Governor Walker’s own ads seeking to defend his position from recall.

That AFPF Board of Directors Chairman David Koch is using AFPF to support Walker in the recall campaign was revealed when he told a *Palm Beach Post* reporter on February 20, 2012 while discussing AFPF’s \$700,000 ad buy, “We’re helping him, as we should. We’ve gotten pretty good at this over the years,” he says. “We’ve spent a lot of money in Wisconsin. We’re going to spend more.”

With the Walker campaign deciding not to challenge the petition signatures, it is now a foregone conclusion that his recall will be verified and an election date will soon be set. Due to the imminence of the recall election and the likelihood of future use of AFPF resources to promote the re-election of Governor Walker, an expedited investigation of this charge within 30 days pursuant to the IRS Political Activities Compliance Initiative is requested. All appropriate

¹ http://www.washingtonpost.com/blogs/plum-line/post/national-tea-party-goes-all-in-to-save-scott-walker/2012/02/08/gIQANGW9yQ_blog.html

penalties should be imposed, including seeking immediate injunctive relief under section 7409 prohibiting this flagrant political intervention, revocation of the exemption for AFPF, denial of the deductibility of deductions to AFPF and appropriate retroactive excise taxes on AFPF and its directors and officers involved in the “It’s Working Wisconsin” campaign.

FACTUAL BACKGROUND

AFPF’s Integrated Operations with AFP

The AFPF purports to be a Section 501(c)(3) charitable organization, whose focus, according to the “Contribution” page of its website, “is to educate the general public about public policy issues, not to support or oppose specific legislation.”² However, this nonpartisan educational purpose is contradicted elsewhere on AFPF’s website, which merges its work with the legislative advocacy work of Americans For Prosperity (“AFP”), a Section 501(c)(4) organization:

Americans for Prosperity™ (AFP) and Americans for Prosperity Foundation (AFP Foundation) are committed to educating citizens about economic policy and mobilizing those citizens as advocates in the public policy process. AFP is an organization of grassroots leaders who engage citizens in the name of limited government and free markets on the local, state and federal levels. The grassroots activists of AFP advocate for public policies that champion the principles of entrepreneurship and fiscal and regulatory restraint.

AFP Foundation is committed to educating citizens about economic policy and a return of the federal government to its Constitutional limits. AFP Foundation's educational programs and analyses help policymakers, the media, and individual citizens understand why policies that promote the American enterprise system are the best method to ensuring prosperity for all Americans. To that end, AFP and AFP Foundation support:

- Cutting taxes and government spending in order to halt the encroachment of government in the economic lives of citizens by fighting proposed tax increases and pointing out evidence of waste, fraud, and abuse.
- Tax and Expenditure Limitations to promote fiscal responsibility.
- Removing unnecessary barriers to entrepreneurship and opportunity by sparking citizen involvement in the regulatory process early on in order to reduce red tape.
- Restoring fairness to our judicial system³

² <http://americansforprosperityfoundation.com/donate>

³ <http://www.americansforprosperityfoundation.com/about>

This fusion between the ostensibly educational work of the AFPF with the political advocacy work of the AFP continues with the following description:

AFP and AFP Foundation's network of organized and influential citizen leaders in a growing number of states throughout the country is working to change the nation one state at a time.

- AFP mobilizes citizens to effectively make their voices heard in public policy issue campaigns.
- AFP educates citizens about where their elected officials stand on our issues.
- AFP and AFP Foundation combine “best-in-class” capabilities built once at the national level with local knowledge from our state staff and on-the-ground armies to create economies of scale that win.
- AFP and AFP Foundation leverage our comparative advantages with those of other groups by building coalitions of local, state, and national organizations fighting for a common cause.
- Through its Grassroots Training Schools, AFP Foundation has recruited and educated thousands of citizens on how to promote greater economic prosperity.

Id. With the exception of the last bullet point above, and the insertion of references to the AFPF, the identical description appears on the AFP website.⁴

This blurring between the objectives of AFPF and the AFP is not surprising, given their highly integrated structure. According to their 2010 Forms 990, both national organizations operate out of the same office in Arlington, Virginia, share eight senior staff holding the identical job titles in both organizations, including President Timothy Phillips, and have the same five-person Board of Directors. Both organizations have state chapters in over 30 states that also operate out of the same office, including a Wisconsin Chapter, with offices in Milwaukee. *Id.* Luke Hilgemann serves as the Director of both the Wisconsin AFPF and the AFP, according to recent posts of their Wisconsin Chapter websites.⁵

While AFPF and AFP maintain separate websites, their logos and color schemes are substantially the same and when one clicks on four out of the five links on the AFPF national and Wisconsin websites (e.g., “About,” “Events,” “Contact”), one is transferred to the AFP website for both the national and Wisconsin affiliates of AFP.⁶

⁴ <http://www.americansforprosperity.org/about>

⁵ See, e.g., <http://americansforprosperity.org/022312-it%E2%80%99s-working-wisconsin-town-hall-next-saturday-march-3rd-green-bay> (AFP Wisconsin Director)
<http://www.americansforprosperity.org/022712-afp-foundation-wisconsin-state-director-appears-roger-hedgecock-show> (AFPF Wisconsin Director)

⁶ <http://www.americansforprosperity.org/foundation>

Presiding over both organizations as the Chairman of the Board of Directors is David Koch. David Koch and his brother Charles, whose joint net worth is over \$35 billion, are the primary source of funding for AFPF and AFP, as well as for a number of other Section 501(c)(3) and (4) organizations promoting similar political objectives. Their use over many years of these organizations to promote their political views and conservative candidates is described in detail in a *New Yorker* magazine article published in August 2010 by Jane Mayer.⁷

Koch Brothers' Political Support of Walker

Koch Industries, the business owned by the Koch brothers, has several thousand employees in Wisconsin, and its PAC donated \$43,000 to the gubernatorial campaign of Scott Walker during the fall of 2010, his second largest contribution.⁸ The Koch brothers also donated \$1 million to the Republican Governors Association, which, in turn, sponsored over \$5 million in ads supporting Walker. The APF was also instrumental in promoting Walker's candidacy. *Id.*

The AFP featured Scott Walker at its tea party rally in Wisconsin in September 2009, when he was running for the Republican nomination for governor. AFP also ran millions of dollars in ads on a "spending crisis" and it selected Wisconsin as one of the states for those ads in the months before Walker's 2010 gubernatorial election. AFP also funded a "spending revolt" tour in Wisconsin last fall through its state chapter.⁹

Following Walker's November 2010 victory in the Wisconsin governor's race, and before he was sworn into office in January 2011,¹⁰ AFPF President Timothy Phillips acknowledged to the *New York Times* that he urged Walker to adopt legislation curtailing public sector union bargaining rights:

Even before the new governor was sworn in last month, executives from the Koch-backed group had worked behind the scenes to try to encourage a union showdown, Mr. Phillips said in an interview on Monday.

State governments have gone into the red, he said, in part because of the excessively generous pay and benefits that unions have been able to negotiate for teachers, police, firefighters and other state and local employees.

"We thought it was important to do," Mr. Phillips said, adding that his group is already working with activists and state officials in Indiana, Ohio and Pennsylvania to urge them to take similar steps to curtail union benefits or give public employees the power to opt out of unions entirely...

⁷ http://www.newyorker.com/reporting/2010/08/30/100830fa_fact_mayer

⁸ <http://motherjones.com/mojo/2011/02/wisconsin-scott-walker-koch-brothers>

⁹ <http://www.prwatch.org/news/2011/02/9964/cmd-special-report-scott-walker-runs-koch-money>

¹⁰ All dates referred to hereinafter occurred in calendar year 2011, unless otherwise indicated.

“This is a watershed moment in Wisconsin,” Mr. Phillips said. “For the last two decades, government unions have used their power to drive pensions and benefits and salaries well beyond anything that can be sustained. We are just trying to change that.”¹¹

In early February 2011, Walker proposed a budget adjustment bill eviscerating public sector bargaining laws. The bill, which once passed became known as Act 10, prohibited bargaining over all terms and conditions of employment except for base wages, eliminated mandatory union dues and dues checkoff, and required annual recertification elections—none of which had anything to do with balancing the budget. Walker had never campaigned on these issues.

Over the next five months until Act 10 became effective on July 1, 2011, there were massive public protests throughout the state opposing the repeal of public sector bargaining rights. AFP played a significant role in defending this legislation. On February 19, the AFP sponsored a counter-protest at which Phillips spoke in support of the bill, along with Herman Cain, Andrew Breitbart, and “Joe the Plumber.”¹² At no point in his remarks at this rally or in any other forum or document expressing support for Act 10 did Phillips ever state he was expressing his personal opinion and was not speaking as a representative of the AFPP.

On February 23, news broke that Walker had been duped by a journalist posing as David Koch, who recorded a telephone conversation, the text of which was released. During this conversation, the following exchange occurred:

Walker: Yep. This is our moment.

Murphy [posing as David Koch]: Now what else could we do for you down there?

Walker: **Well the biggest thing would be — and your guy on the ground [Americans For Prosperity President Tim Phillips] is probably seeing this, it would be well, two things...the people who don't like you, they're going to flip you off. But stop worrying about them because the other day there were 70,000 — probably two-thirds were against the bill, one-third were for [the AFP counter-protest] — 70,000 people at the Capitol. All week there's been fifteen to thirty thousand a day. But I remind all our lawmakers that there's five and a half million people in this state. And just because a bunch of guys who can jump off of work because of their union work rules doesn't mean the rest of the people in your district are with them. So the one thing in your question, the more groups that are encouraging people not just to show up but to call lawmakers and tell them to hang firm with the governor, the better. Because the more they get that assurance, the easier it is for them to vote yes. The other thing is more long term, and that is after this, you know the coming days and weeks and months ahead, particularly in some of these more swing areas, a lot of these guys are gonna need, they don't actually need ads for them but they're going**

¹¹ <http://www.nytimes.com/2011/02/22/us/22koch.html?pagewanted=all>

¹² <http://www.americansforprosperity.org/wisconsin/blog?page=6>

to need a message put out reinforcing why this was a good thing to do for the economy and a good thing to do for the state. So the extent that that message is out over and over again is obviously a good thing.¹³

During this exchange, Walker referred to the introduction of the repeal of public sector bargaining rights as “dropping the bomb...., this is our moment. This is our time to change the course of history, and this is why it’s so important that they were all there.” *Id.*

Throughout the spring AFP ran a series of TV and radio ads and held rallies across the state supporting the bill, consistent with Walker’s expressed desires.¹⁴

In July and August, there were nine recall elections involving state senators, both Republicans and Democrats. AFP continued to run ads and conduct rallies supporting Act 10 in areas where these elections were conducted. *Id.*

AFPF Launches the “It’s Working Wisconsin” Campaign As Recall Begins

On November 15, near the earliest date possible to file recall petitions,¹⁵ a recall committee sponsored by a group called United Wisconsin registered to begin circulating petitions seeking to recall Governor Walker, Lieutenant Governor Rebecca Kleefisch and four Republican senators who supported Governor Walker’s repeal of public sector bargaining rights.

On October 25, the AFPF, together with the MacIver Institute For Public Policy, another Wisconsin-based 501(c)(3) organization, announced a joint project called, “It’s Working Wisconsin,” with the following press release:

Two of Wisconsin’s most recognized supporters of smaller government and individual liberty have teamed up to produce and distribute a multimedia educational effort that explains the need for and success of Wisconsin’s recent budget reform.

On Wednesday, the Americans for Prosperity Foundation and the MacIver Institute launched *It’s Working*. The effort includes a 60 second television commercial that touts the ItsWorkingWisconsin.com website.

ItsWorkingWisconsin.com includes an instructional video that, along with reports from journalists across the state, chronicle the success of Wisconsin Act 10. The project explains the relationship between state and local units of government and the need for this spring’s budget reform measures.

¹³ <http://www.jsonline.com/blogs/news/116751499.html> (emphasis added)

¹⁴ <http://www.americansforprosperity.org/wisconsin/blog?page=3-5>

¹⁵ Under Wis. Stat. § 9.10, the governor cannot be recalled until he has held office for a year after his January 2010 swearing in and electors have 60 days in which to secure sufficient signatures.

“The left has attempted to win the debate over the future direction of the state by yelling the loudest and the longest,” said AFPF-Wisconsin State Director Matt Seaholm. “The *It’s Working* project cuts through the noise to present the facts to the people of Wisconsin who deserve to know the truth.”

“Since day one the MacIver Institute has been committed to providing the facts to Wisconsin taxpayers,” said MacIver President Brett Healy. “The facts are that every week there are more examples of how *It’s Working* and we’re making sure those facts get delivered over the air and online.”

This spring, Wisconsin could have either raised taxes on individuals, families and job providers, or cut spending. As a result of Wisconsin’s budget reform, the state has cut the deficit and reduced the strain on local governments by giving them the tools to reduce their labor costs without massive program cuts or layoffs.

Initially, *It’s Working* will consist of 60 second television commercials that offers a few highlights of the widespread success of Wisconsin’s budget reform. The spot, airing on statewide broadcast and cable television, promotes the *ItsWorkingWisconsin* website that details the positive results of local officials having the flexibility to reduce spending while protecting vital services...

“The State of Wisconsin has turned the corner toward smaller, more effective government,” said Healy. “Good news bears repeating.”¹⁶

Seaholm also served as the Wisconsin AFP Director during this time.¹⁷

¹⁶ <http://itsworkingwisconsin.com/news/2011-10-25/americans-prosperity-foundation-and-john-k-maciver-institute-public-policy-announce->

¹⁷ <http://www.americansforprosperity.org/wisconsin/blog?page=5>;
<http://www.americansforprosperity.org/wisconsin/blog?page=5>

AFPF's "It's Working Wisconsin" Ads Mirror Walker Campaign Ads

On October 26, AFPF and the MacIver Institute began airing the following ad on statewide television stations:

They told us the sky would fall and Wisconsin would end as we know it, but the sky's still there and Wisconsin is stronger than ever thanks to our budget reforms. Facing a 3.6 billion dollar deficit Wisconsin was out of money so instead of raising taxes we cut spending by asking government employees to contribute to their own pensions and benefits like everyone else and reigning in abuses of collective bargaining privileges to put taxpayers back in control. Today Wisconsin has eliminated its deficit, reducing the strain on local governments. Now local officials have the flexibility to reduce spending while protecting vital services. From a 1.5 million dollar surplus in Kaukauna, to 25 million dollars saved in Milwaukee, taxes are going down, programs are being saved, and the success stories just keep on coming. Wisconsin budget reform, it's working. Get the facts at It's Working Wisconsin.com.¹⁸

The transcript of this ad and all other ads discussed below are contained on the attached chart. On November 14, Walker's campaign ran the following ad on statewide television stations:

[School district official]: We were worried when the state budget was going to mean less money for our school district and we have 25 schools. But Governor Walker, he gave us options that reduced our biggest costs so that we could put more money back into our classrooms.

[Walker]: I'm committed to working together to create more jobs, to improve our schools, and to protect our seniors. You know, Wisconsin's best days are yet to come. It won't happen overnight but we are on our way.¹⁹

On November 19, AFPF/MacIver ran the following ad on statewide television stations:

In a small business, you make a budget and you live within your means. It's the same with our families, we're all doing more with less; shouldn't our government? Thanks to recent reforms Wisconsin's government is working more effectively and efficiently. Wisconsin put an end to abuses of collective bargaining, putting taxpayers back in control. The state has cracked down on sick leave scams that led to skyrocketing overtime costs. And now we have the flexibility to pay teachers based on performance not merely seniority. Taxpayers saved hundreds of millions. From 25 million saved in Milwaukee to budget

¹⁸ <http://www.youtube.com/watch?v=71D9HiwRKTE>

¹⁹ <http://www.youtube.com/watch?v=m0EfMhiE9E0>

surpluses in Kaukauna and Wood County. We're headed in the right direction and vital programs are being preserved. Wisconsin has also avoided the mass layoffs of public workers that we've seen in other states. And we did this. We did all this. We did all this. Without raising taxes. Wisconsin's government is working smarter. There's more to do but the facts show reforms are working. Get the facts at It's Working Wisconsin.com.²⁰

On November 29, the AFPP/MacIver followed up with this TV ad:

In a small business, you make a budget and you live within your means. It's the same with our families, we're all doing more with less; shouldn't our government? Thanks to recent reforms like ending sick leave and overtime abuses Wisconsin's government is working smarter. Taxpayers saved hundreds of millions. Preventing layoffs of teachers and firefighters. And we did all this. Without raising taxes. There's more to do, but the facts show reforms are working. Get the facts at It's Working Wisconsin.com.²¹

On December 6, the Walker campaign continued with the same theme that Act 10 was working:

[Teacher]: When the state budget passed in Madison a lot of us thought we might lose our jobs. We figured if we didn't get laid off, our class sizes would become unmanageable but that didn't happen. I don't agree with Governor Walker on everything but thanks to his budget reforms, hundreds of teachers like me still have their job.

[Walker]: I'm committed to working together to create more jobs, to improve our schools and to protect our seniors. Wisconsin's best days are yet to come. It won't happen overnight but we are on our way.²²

On January 9, 2012, the Walker campaign aired the following ad on statewide television stations continuing to promote the shared theme with the AFPP/MacIver Institute that the collective bargaining restrictions in Act 10 were successful:

Wisconsin finally has a governor who keeps his campaign promises. No more tax hikes, massive layoffs or budget gimmicks. You know when he ran for governor Scott Walker said he'd cut wasteful spending, eliminate the budget deficit and lower taxes. And you know what? That's exactly what he did. Governor Walker wiped out a 3.6 billion dollar deficit without raising taxes and kept thousands of teachers, firefighters and police officers on the job. He saved taxpayers at least 848 million dollars by asking government workers to contribute to their health and pension benefits like the rest of us do. In fact, overall school property taxes actually went down statewide this year thanks to the governor's budget reforms. We can't afford to go back to the days of billion dollar budget deficits, double

²⁰ http://www.youtube.com/watch?v=_loV97QDdbE&feature=player_embedded

²¹ <http://www.youtube.com/watch?v=-w7Yegksld4>

²² <http://www.youtube.com/watch?v=r-bHIfsJV-E&list=UUEeJwPqSAkPNxIR-HZ89fvw&index=6&feature=plcp>

digit tax increases and record job loss. So let's keep Wisconsin moving forward with Scott Walker.²³

On January 17, 2012, United Wisconsin filed an estimated 1 million signatures seeking Walker's recall, well more than the 540,208 required. Petitions seeking the recall of Lieutenant Governor Kleefisch and four Republican state senators supporting Act 10 also were filed.

Under Wisconsin law, the Government Accountability Board has 60 days to process the petitions and if a sufficient number of valid signatures have been submitted, it will certify that a recall election will occur. If more than one opposing candidate submits sufficient signatures within two weeks, a primary election is held within 30 days. The winner then faces Governor Walker in an election to be held within 30 days.

On February 16, 2012, the AFPP/MacIver Institute ran the following ad on statewide television and radio stations:

Here in Wisconsin we're still facing economic challenges. But unlike many other places Wisconsin's reforms are working. I'm a state employee and while I'm paying some of my insurance and retirement costs now I know I have better benefits than most and working together we saved thousands of jobs, like mine. We've kept the cost of government in check. And property taxes saw their smallest increase in 15 years. In fact my property taxes actually went down. Mine dropped by 4% with no reduction in services. And school tax levies are down for the first time in 6 years. How did we do all this? One big reason is Wisconsin's reform plan. Our taxpayers saved hundreds of millions. And we ended the union bargaining abuses, putting the taxpayers back in control. Those savings helped Wisconsin avoid the massive tax hikes and layoffs other states have seen. There's more to do but the facts show the reforms are working. Get the facts. Get the facts. Get the facts at It's Working Wisconsin.com.²⁴

AFPP/MacIver Institute have also conducted a series of "It's Working Wisconsin Town Halls," the first of which was held on January 7, 2012, in Waukesha, the second was held in Wausau on February 11, and a third on March 3 in Kimberly. The Waukesha forum was chaired by AFPP and AFP Director Luke Hilgemann, who stated the purpose of the forum is to "separate the rhetoric from the reality on what the budget reforms championed by Governor Scott Walker and passed by the legislature have done for our state."²⁵ Several prominent Republican legislators appeared at the forum and defended the repeal of collective bargaining rights for public sector employees under Act 10. A nine-minute video describing in detail the impact of Act 10 on state and local budgets also was shown.²⁶

²³ http://wispolitics.com/1006/FOSW_Results_60_Sec_Radio.mp3

²⁴ http://www.youtube.com/watch?v=PMXxd_SJaVk&feature=youtu.be

²⁵ <http://www.youtube.com/watch?v=RmvC-91ITME&feature=youtu.be>

²⁶ http://www.youtube.com/watch?v=f_7rFHXBC9c

The news release promoting the Wausau forum linked educating the public about Act 10 with the need to “maintain” these reforms, an implicit reference to the recall election:

“These town halls provide a perfect venue for citizens to get the straight facts on how the budget reforms have transformed Wisconsin and put our state on a path towards longstanding fiscal prosperity,” said AFP-Wisconsin State Director Luke Hilgemann. “We encourage attendees to come armed with their questions and look forward to a respectful discussion on why we must **maintain** the reforms that have saved hundreds of millions for Wisconsin taxpayers.”²⁷

In February 2012, the AFPF published a newsletter, titled “Need to Know,” following the “It’s Working Wisconsin” theme that expressly tied Governor Walker to the budget reforms contained in Act 10:

In 2011, Wisconsin was the site of vast union protests and intense fighting over proposed state budget reforms offered by **Governor Scott Walker**. Instead of raising taxes to close the state’s \$3.6 billion deficit, the reforms sought to cut spending—saving taxpayers’ hard-earned money.²⁸

On February 24, 2012, AFPF noted on its website that its Executive Director Hilgemann appeared on a radio show whose host identified him as a representative of AFP, not AFPF. During the interview, Hilgemann explicitly linked the “It’s Working Wisconsin” campaign to Walker’s recall election:

Announcer: ...I think the most important election and the one that might actually determine the outcome of the big one in November is one we don’t even have a date for yet and that is the recall election of Governor Scott Walker in Wisconsin.

Hilgemann: ..., things are turning around here in Wisconsin, you know, that we are seeing more and more citizens coming back to the side of reform. The latest polls are bearing out that people are starting to trust in what the Governor did, that it was the right decision for Wisconsin and it’s moving us forward in the right direction...²⁹

David Koch’s Admission that AFPF is Being Used to Intervene in Walker’s Campaign

On February 20, the *Palm Beach Post* published an article in which David Koch made the following remarks during an interview tying the AFPF and AFP activities described above to the Walker recall campaign:

²⁷ <http://www.americansforprosperity.org/020612-afp-foundation-brings-it%E2%80%99s-working-wisconsin-townhall-northwoods#ixzz1nJgKDoWN> (emphasis added)

²⁸ See attached chart. (emphasis added)

²⁹ Entire text of interview on attached chart.

Asked about his efforts to sway public opinion, Koch acknowledges his group is hard at work in places such as Wisconsin, where Gov. Scott Walker is facing off with public unions and grappling with a likely recall vote.

“We’re helping him, as we should. We’ve gotten pretty good at this over the years,” he says. “We’ve spent a lot of money in Wisconsin. We’re going to spend more.”

By “we” he says he means Americans for Prosperity, which is spending about \$700,000 on an “It’s working” television ad buy in the state. It credits Walker’s public pension and union overhaul with giving school districts the first surpluses they’ve seen in years. The unions and the left see things differently...

“What Scott Walker is doing with the public unions in Wisconsin is critically important. He’s an impressive guy and he’s very courageous,” Koch says after a benefit dinner of salmon and white wine. “If the unions win the recall, there will be no stopping union power.”³⁰

LEGAL ANALYSIS

I. AFPF Wisconsin is Engaged in Non-Exempt Operations Supporting the Walker Campaign.

A. Legal Standards.

Section 501(c)(3) of the Code provides, in part, that an organization is exempt from federal income tax if it is organized and operated for charitable and educational purposes, provided that no substantial part of its activities is carrying on propaganda and that it does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

The regulations implementing this provision establish two primary tests for determining whether an organization is exempt, one focusing on whether the formal organizational purposes are exempt, and the other on whether the operation’s practices are consistent with exempt purposes. 26 CFR 1.501(c)(3)-1(a). Since the Service has already approved the tax exemption for AFPF, the organizational purposes prong has been met, although as shown in Part C below, serious questions regarding compliance with this provision are raised by AFPF’s adoption of AFP’s section 501(c)(4) mission statement on its website.

The analysis set forth below shows that AFPF’s “It’s Working Wisconsin” campaign adopted in October 2011 violates the second operational test of these regulations. Section 1.501(c)(3)-(3)(i) provides that if an organization participates or intervenes, directly or indirectly, in any political

³⁰ <http://www.palmbeachpost.com/money/david-koch-intends-to-cure-cancer-in-his-2185046.html?viewAsSinglePage=true>

campaign on behalf of or in opposition to any candidate for public office, it is an “action” organization. An “action” organization is not operated exclusively for one or more exempt purposes and, therefore, cannot be exempt under section 501(c)(3) of the Code.

The prohibition against participation or intervention in a political campaign is absolute. Therefore, it is not material that the intervention is an insubstantial part of an organization’s activities or that the other activities of the organization would, by themselves, support exemption under section 501(c)(3) of the Code. See *United States v. Dykema*, 666 F.2d 1096, 1101 (7th Cir. 1981), cert. denied, 456 U.S. 983 (1982) and *Association of the Bar of the City of New York v. Commissioner*, 858 F.2d 876 (2nd Cir. 1988), cert. denied, 490 U.S. 1030 (1989).

Section 4955(d)(1) of the Code provides that the term “political expenditure” means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Revenue Ruling 2007-41, 25 I.R.B.1421 (June 18, 2007) defines the distinction between issue advocacy and prohibited support of a campaign:

Section 501(c)(3) organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, section 501(c)(3) organizations must avoid any issue advocacy that functions as political campaign intervention. Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the political campaign intervention prohibition if there is any message favoring or opposing a candidate.

The following factors must be considered in determining whether purported issue advocacy functions as support for a political campaign:

- Whether the statement identifies one or more candidates for a given public office;
- Whether the statement expresses approval or disapproval for one or more candidates’ positions and/or actions;
- Whether the statement is delivered close in time to the election;
- Whether the statement makes reference to voting or an election;
- Whether the issue addressed in the communication has been raised as an issue distinguishing candidates for a given office;
- Whether the communication is part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of any election; and
- Whether the timing of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office.

A communication is particularly at risk of political campaign intervention when it makes reference to candidates or voting in a specific upcoming election. Nevertheless, the communication must still be considered in context before arriving at any conclusions.

Likewise, TAM 9609007, 1996 WL 87759 (IRS TAM) makes clear that all forms of direct or indirect campaign intervention fall within the ban:

M has argued that there must be more than evidence of bias in its fund raising letters for or against candidates running for public office in order for M to be found to have violated the section 501(c)(3) political intervention prohibition. However, in respect to this prohibition there is no “express advocacy” rule as was required by the Supreme Court in Buckley v. Valeo, 424 U.S. 1 (1976), and Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238 (1986), in regard to influencing federal elections under the jurisdiction of the Federal Election Commission. For purposes of section 501(c)(3), intervention in a political campaign may be subtle or blatant. It may seem to be justified by the press of events. It may even be inadvertent. The law prohibits all forms of participation or intervention in “any” political campaign.

Applying these standards here demonstrates that AFPF’s “It’s Working Wisconsin” campaign initiated in October 2011 functions as support for Governor Walker in his effort to defeat the recall campaign. Further, an analysis of AFPF’s purposes and operations, which are merged with those of its sister Section 501(c)(4) organization AFP, further indicates it is an action organization. And a review of how the “It’s Working Wisconsin” campaign conforms with AFPF Chairman David Koch’s avowed goal of supporting Governor Walker indicates this campaign is designed to serve his private interest rather than any charitable purpose.

B. The AFPF’s Support of the Act 10 Budget Reforms Functions as Support for Governor Walker.

1. Walker is a Candidate for Recall.

As noted above, under Wisconsin law, a governor cannot be recalled prior to serving one year in office and since he assumed office in January 2011, the earliest a recall effort could be initiated was 60 days prior to this date since the law requires the signatures to be gathered within a 60-day period. If sufficient signatures are filed and verified, the Government Accountability Board directs a recall election. Wis. Stat. § 9.10.

United Wisconsin initiated the process on November 15, 2011, and began gathering signatures. For purposes of this analysis, Walker must be considered a “candidate,” even though no recall election had been set in November. There is no question that by virtue of the filing of the registration to initiate a petition to gather signatures to recall him from office, he was “proposed by others, as a contestant for an elective public office,” under Section 1.501(c)(3)(c)(1)(iii). That Walker considered himself a candidate is evidenced by his decision to run a campaign ad on

November 14. At any rate, it is immaterial that the AFPF/MacIver ads do not mention Walker by name. See GCM 39811 (“exemption lost by encouraging members to run for precinct man positions” because “to require the identification of particular candidates would undermine the clear prohibition against ‘any’ participation contained in the regulations”).

2. AFPF Expressed Approval For Walker’s Signature Action in Proposing Act 10.

On October 25, AFPF/MacIver launched the “It’s Working Wisconsin” campaign, and ran its first ad, which stated in part:

They told us the sky would fall and Wisconsin would end as we know it, but the sky’s still there and Wisconsin is stronger than ever thanks to our budget reforms. Facing a 3.6 billion dollar deficit Wisconsin was out of money so instead of raising taxes we cut spending by asking government employees to contribute to their own pensions and benefits like everyone else and reigning in abuses of collective bargaining privileges to put taxpayers back in control. n. 17, *supra*.

While the ad does not identify Walker by name, there is no question it was referring to his signature legislative achievement—Act 10, which purports to be a budgetary reform designed to “reign in abuses of collective bargaining.” *Id.* The message keeps its real objective of discouraging citizens from signing the recall petitions thinly veiled by masquerading as a neutral-sounding form of permissible issue advocacy—supporting the budget reforms. But in light of the evidence and surrounding circumstances described above, it is clear that the purpose of extolling the positive impact of the budget reforms is to promote Walker’s simultaneous campaign to persuade voters to not sign recall petitions.

Perhaps the best evidence that the AFPF/MacIver ads were intended to intervene on Walker’s behalf in his recall campaign is to examine Walker’s own ads. There is a remarkable similarity between the themes that Act 10 has provided local school districts with the tools to balance their budgets without cutting services or raising taxes. Thus, the October 25 AFPF/MacIver ad states:

Today Wisconsin has eliminated its deficit, reducing the strain on local governments. Now local officials have the flexibility to reduce spending while protecting vital services. From a 1.5 million dollar surplus in Kaukauna, to 25 million dollars saved in Milwaukee, taxes are going down, programs are being saved, and the success stories just keep on coming. Wisconsin budget reform, it’s working.

Id.

Governor Walker followed this ad focusing on how his budget reforms helped school districts balance their budgets as if on cue with his own ad on November 14:

We were worried when the state budget was going to mean less money for our school district and we have 25 schools. But Governor Walker, he gave us options

that reduced our biggest costs so that we could put more money back into our classrooms. n. 18, *supra*.

In precisely the same vein, AFPP/MacIver chimed in with this ad on November 19:

And now we have the flexibility to pay teachers based on performance not merely seniority. Taxpayers saved hundreds of millions. From 25 million saved in Milwaukee to budget surpluses in Kaukauna and Wood County. We're headed in the right direction and vital programs are being preserved. Wisconsin has also avoided the mass layoffs of public workers that we've seen in other states. And we did this. We did all this. We did all this. Without raising taxes. Wisconsin's government is working smarter. n. 19, *supra*.

A Walker ad again echoed this same refrain on December 6:

When the state budget passed in Madison a lot of us thought we might lose our jobs. We figured if we didn't get laid off, our class sizes would become unmanageable but that didn't happen. I don't agree with Governor Walker on everything but thanks to his budget reforms, hundreds of teachers like me still have their job. n. 21, *supra*.

Walker's two ads in January and AFPP/MacIver's February 16 ad are virtually indistinguishable, each highlighting the elimination of the deficit without raising taxes and the avoidance of layoffs. The same themes were reiterated at the It's Working Wisconsin Town Hall meeting held on January 7 in Waukesha and in AFPP's publication, which expressly mentions Governor Walker by name. (See attached chart.) Accordingly, there is no question that the second, third and fifth prongs of the Revenue Ruling 2007-41 test are met, indicating an intention to intervene on Walker's behalf to discourage citizens from signing the recall petition and to vote for Walker in the imminent election.

Likewise, consideration of the remaining Revenue Ruling 2007-41 factors weighs in favor of finding an intention to intervene in the campaign. Prior to launching the "It's Working Wisconsin" campaign on October 25, the AFPP had never before been involved in discussing Act 10. Thus, it cannot be said the post-October 25 ads were "part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of any election." *Id.*

Nor can it be said this campaign was "related to a non-electoral event such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office." Act 10 had already been passed on March 11, 2011, and became effective July 1. The campaign focuses exclusively on the effects of this legislation. No similar legislation was or is currently pending.

Finally, while it may be true that the campaign does not expressly "make reference to voting or an election," this is inconsequential. There simply was no need to do so in the midst of a widely

publicized statewide campaign that resulted in the gathering of roughly a million signatures in 60 days. Moreover, the advertisement for the It's Working Wisconsin forum in Wausau on February 11 stated it would discuss "why we must **maintain** the reforms that have saved hundreds of millions for Wisconsin taxpayers." (emphasis added) As previously stated, the expressed need to "maintain the reforms" is a euphemism for the importance of re-electing Walker.

The cynical manipulation of issue advocacy in AFPF/MacIver Institute's It's Working Wisconsin campaign was aptly revealed in Lightmann's opening remarks at the Waukesha forum: "We're not here today to talk about politics. Instead, we are here to separate the rhetoric from the reality on what the budget reforms championed by Governor Scott Walker and passed by the legislature have done for our state." The truth, in light of all the circumstances described above, is that there is no meaningful distinction between the politics of supporting Walker during the recall petitioning and election and the rhetoric about protecting the "budget reforms."

3. The AFPF Serves the Koch Brothers' Personal Interests in Defeating the Recall of Governor Walker.

Section 1.501(c)(3)-1(d)(1)(i) of the regulations provides that an exempt entity must serve a public rather than a private purpose:

Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

There is no question that David Koch and his brother Charles are a "private interest" within the meaning of this regulation. It is well-known that they are the primary source of funding for the AFPF and the AFP, and David Koch's service as Chairman of the Board of Directors of both organizations gives him effective control over them.

The Koch brothers' private interest in supporting both Governor Walker and his budget reform is also beyond dispute. They were the second largest contributor to Governor Walker's successful gubernatorial campaign. AFPF President Phillips acknowledged to the *New York Times* he worked closely with the Walker administration in crafting what became Act 10. Accordingly, it must be concluded they possess a private interest in defending his primary legislative achievement—Act 10—and in defending him against the recall campaign in furtherance of their overall objective over the past 30 years chronicled in the *New Yorker* article to advance the conservative agenda of shrinking the size of government and deregulating business. See n. 7, *supra*.

Anyone with more than a fleeting grasp of the massive public protests that met Walker's proposed budget reform in February 2011 which became Act 10 must acknowledge that in the

public eye, Walker's actions were viewed as a form of political payback for their contributions and support. Indeed, many of the thousands of handwritten signs appearing during the protests condemned the Koch Brothers with equal fervor as Walker.³¹

While the prank phone call from David Koch to Walker undoubtedly fueled these protests, Walker's candid comments revealed his proposal to use AFPF and AFP to serve his private interests. When the caller asked Walker what he, David Koch, could do for him, Walker responded with a request for "two things" his "guy on the ground," AFPF and AFP President Tim Phillips, could do:

- 1) "call lawmakers and tell them to hang firm with the governor, the better. Because the more they get that assurance, the easier it is for them to vote yes."
- 2) "you know the coming days and weeks and months ahead, particularly in some of these more swing areas, a lot of these guys are gonna need, they don't actually need ads for them but they're going to need a message put out reinforcing why this was a good thing to do for the economy and a good thing to do for the state."

AFPF's actions several months later confirmed that Walker's second request ended up being what was effectively the **blueprint for the AFPF's "It's Working Wisconsin" campaign launched in October 2011 immediately after the recall effort had been initiated.**

Thus, for these purposes, there is no question that not only did Walker view AFPF and AFP as campaign tools to support the passage of Act 10 fend off attacks against its supporters, but that the Kochs in fact acted to further their private interest by using AFPF's funds to achieve these shared private goals. As demonstrated above, the "It's Working Wisconsin" campaign dovetails neatly with the precise themes Walker is pursuing in defense of his office during the recall election.

If Walker was unintentionally candid in his remarks to the prank caller, so too was David Koch in his remarks to someone he apparently viewed as a sympathetic local reporter desiring to write an article congratulating him on his charitable work. In fact, the reporter was a University of Wisconsin-Madison graduate who was fully aware of events in Wisconsin, and as a result of her probing questions, he admitted his use of AFPF to support Walker's campaign:

"We're helping him, as we should. We've gotten pretty good at this over the years," he says. "We've spent a lot of money in Wisconsin. We're going to spend more."

³¹

http://www.slate.com/articles/news_and_politics/politics/2011/02/public_enemies_nos_1_and_2.html

By “we” he says he means Americans for Prosperity, which is spending about \$700,000 on an “It's working” television ad buy in the state.

“What Scott Walker is doing with the public unions in Wisconsin is critically important. He’s an impressive guy and he’s very courageous,” Koch says after a benefit dinner of salmon and white wine. “If the unions win the recall, there will be no stopping union power.” n. 30, *supra*.

It is rare to find so frank an admission by both the contributor and his benefactor of such a gross and blatant abuse of a section 501(c)(3) organization to further private political ends.

CONCLUSION

Until such time as the U.S. Supreme Court’s *Citizens United* decision is overturned, the Koch brothers are free to donate as much as they want to section 527 or “Super-PAC” entities to engage in independent spending to support Governor Walker. Instead, they are making taxpayer-subsidized deductible donations to the AFPF to accomplish their blatantly partisan political objectives of defending Governor Walker during his recall campaign. The Service should use all of its enforcement powers to immediately enjoin these abuses and assess the maximum penalties for this affront to section 501(c)(3).

March 13, 2012

Americans for Prosperity/Maclver and Walker Campaign Ads

AFP/Maclver	Walker
<p>10/26/11 AFP/Maclver http://www.youtube.com/watch?v=7ID9HiwRKTE They told us the sky would fall and Wisconsin would end as we know it, but the sky's still there and Wisconsin is stronger than ever thanks to our budget reforms. Facing a 3.6 billion dollar deficit Wisconsin was out of money so instead of raising taxes we cut spending by asking government employees to contribute to their own pensions and benefits like everyone else and reigning in abuses of collective bargaining privileges to put taxpayers back in control. Today Wisconsin has eliminated its deficit, reducing the strain on local governments. Now local officials have the flexibility to reduce spending while protecting vital services. From a 1.5 million dollar surplus in Kaukauna, to 25 million dollars saved in Milwaukee, taxes are going down, programs are being saved, and the success stories just keep on coming. Wisconsin budget reform, it's working. Get the facts at It's Working Wisconsin.com.</p>	<p>11/14/11 Walker Campaign http://www.youtube.com/watch?v=m0EfMhiE9E0 We were worried when the state budget was going to mean less money for our school district and we have 25 schools. But Governor Walker, he gave us options that reduced our biggest costs so that we could put more money back into our classrooms. [Walker]: I'm committed to working together to create more jobs, to improve our schools, and to protect our seniors. You know, Wisconsin's best days are yet to come. It won't happen overnight but we are on our way.</p>
<p>11/18/11 AFP/Maclver http://www.youtube.com/watch?v= loV97QDdbE&feature=player_embedded In a small business, you make a budget and you live within your means. It's the same with our families, we're all doing more with less; shouldn't our government? Thanks to recent reforms Wisconsin's government is working more effectively and efficiently. Wisconsin put an end to abuses of collective bargaining, putting taxpayers back in control. The state has cracked down on sick leave scams that led to skyrocketing overtime costs. And now we have the flexibility to pay teachers based on performance not merely seniority. Taxpayers saved hundreds of millions. From 25 million saved in Milwaukee to budget surpluses in Kaukauna and Wood County. We're headed in the right direction and vital programs are being preserved. Wisconsin has also avoided the mass layoffs of public workers that we've seen in other states. And we did this. We did all this. We did all this. Without raising taxes. Wisconsin's government is working smarter. There's more to do but the facts show reforms are working. Get the facts at It's Working Wisconsin.com.</p>	<p>11/23/11 Walker Campaign http://www.youtube.com/watch?v=8rAEM-QJFHk&feature=youtu.be I'm not big on recalls and I think that at this point in my opinion and I'm only speaking from the I, it feels a little like sour grapes. It's you know we didn't get our way and so we want to, to change the outcome. The person that I'm going to stand behind and that is going to get my vote is the man or the woman that says what they mean and means what they say and it's not about being popular, you know, it's not about getting the votes, it's this is what's right, I mean Scott Walker said from the beginning, I'm gonna do what's right for Wisconsin and he did, he did.</p>

<p>11/29/11 AFP/Maclver http://www.youtube.com/watch?v=-w7Yegksld4 In a small business, you make a budget and you live within your means. It's the same with our families, we're all doing more with less; shouldn't our government? Thanks to recent reforms like ending sick leave and overtime abuses Wisconsin's government is working smarter. Taxpayers saved hundreds of millions. Preventing layoffs of teachers and firefighters. And we did all this. Without raising taxes. There's more to do, but the facts show reforms are working. Get the facts at It's Working Wisconsin.com.</p>	<p>12/6/11 Walker Campaign http://www.youtube.com/watch?v=r-bHlfsJV-E&list=UUEeJwPqSAkPNxIR-HZ89fw&index=6&feature=plcp When the state budget passed in Madison a lot of us thought we might lose our jobs. We figured if we didn't get laid off, our class sizes would become unmanageable but that didn't happen. I don't agree with Governor Walker on everything but thanks to his budget reforms, hundreds of teachers like me still have their job. [Walker]: I'm committed to working together to create more jobs, to improve our schools and to protect our seniors. Wisconsin's best days are yet to come. It won't happen overnight but we are on our way.</p>
	<p>12/12/11 Walker Campaign http://www.youtube.com/watch?v=sscWf1Mf1zq&feature=youtu.be Governor Walker is a friend of small business. He recognizes that 70% of the jobs created in this country and this state are by small businesses. He wants all of the people of this state to be successful. It's comforting and it's been rare, so it's a refreshing change. We've got offices and divisions of our own company in other states, New York, California, and we can see that if Wisconsin continues on a pro-business strategy we're going to grow our staff here.</p>
	<p>12/21/11 Walker Campaign http://www.youtube.com/watch?v=eHRzLCTOo4g&feature=youtu.be [Walker's wife]: The holidays are a time for us to give thanks and to reach out to those who are struggling. It's a tough time for many families but in Wisconsin we have a long tradition of helping our neighbors. We're grateful for the opportunity to serve the people of Wisconsin. In this season of peace our hope is that we can put our differences aside and move forward together. [Walker]: From our family to yours, blessings of the season.</p>
<p>1/7/12 AFP/Maclver re Waukesha Meeting http://www.youtube.com/watch?v=RmvC-91ITME&feature=youtu.be The Maclver Institute and the Americans for Prosperity Foundation held an Its Working town hall forum in Waukesha County on Saturday. [NS] We're not here today to talk about politics. Instead, we are here to separate the rhetoric from the reality on what the budget reforms championed by Governor Scott Walker and passed by the legislature have done for our state. [NS] Over a thousand people from southeast Wisconsin attended. They heard how recent budget and labor reforms impacted state and local spending. After watching the 9-minute Its Working video, local and state lawmakers addressed the crowd. [NS] So if you imagine that Democrats were united in control of state government, Jim Doyle was the one at the negotiating table with the unions giving away our tax money on</p>	<p>1/3/12 Walker Campaign http://www.youtube.com/watch?v=vYFrt_jwdCk&feature=youtu.be Hi, I'm Scott Walker. When I ran for Governor I promised to rein in spending. Eliminate the deficit and hold the line on taxes. And you know what? That's exactly what we did. We had to make some tough decisions but thankfully we wiped out the 3.6 billion dollar deficit without raising taxes and because government workers are now contributing to their health and pension benefits like most people do we saved the taxpayers hundreds of millions of dollars and kept thousands of teachers, firefighters and police officers on the job. In the 3 years before I took office Wisconsin lost 150,000 jobs, but now, well, employer confidence is up and since the start of the year Wisconsin has added thousands of new jobs. Instead of going back to the days of billion dollar budget deficits, double</p>

your behalf. He sat down with the unions and he said we want you to pay about four dollars more a month for your health insurance. Four dollars a month, not a week, does anybody here want to guess whether or not the unions said we would be happy to take that? Or did they say no? [NS] No. [NS] They said no, you are, this is a much smarter than the average room. Um, they said no. So what happened was the Democrats said we're going to continue to negotiate and they negotiated for a year and a half trying to get that four dollars. And you know what happened in September of 2010? The unions got up from the bargaining table and said we are going to wait until after the election because we think Tom Barrett will give us a better bargain than your four dollar deal. They left the bargaining table. And you know what happened? We won the election. [NS] A Q&A gave the audience a chance to bring up specific concerns. Or, like this state employee, a chance to get some things off his chest. [NS] Uh, thank you, I'm Randy Reading, I do uh work with the Department of Natural Resources so therefore I am a state employee. I just want to share with you some of the experience I had in terms of, and the things I contemplated over uh with regards to whether I was being treated fairly. First of all, my union did not care about the workers. Um, their, their initial um plea was to rally people around the idea that they would pay nothing uh additional for their benefits and it was only until they realized that uh public opinion was against that, that they thought it was correct for public employees to do so that they turned it into a collective bargaining issue. Bottom line is that I pay \$201 a month for family care with no deductible. I have sick leave which I accumulate and carry over until retirement; I can use to pay for that very nice benefit for both myself and my wife. The other thing is that many of my friends, keep in mind that, and public employees are not the same as public unions, the public unions spread rumors of, such as an example, we cannot guarantee that your sick leave blah, blah, blah, will not be attacked by Governor Walker when fiscally it made no sense because that would, they were mostly aiming for things that would mean give immediate relief. Uh, the other thing is I had furlough days, salary that was taken away by Governor Doyle and given back by Governor Walker so I'd like to thank, so I'd like to thank the taxpayers of Wisconsin for my benefits and I'm not getting ripped off. And please, please, please, please go to your friends, neighbors and relatives and tell them on my part, please allow me to have the right to choose whether I want to contribute to a union or not. Thank you. [NS] Organizers say that based on the overwhelming success of the forum, additional events may soon be held in other communities across Wisconsin. For the Maclver Institute, I'm Bill O'smalsky.

digit tax increases and record job loss, let's keep moving Wisconsin forward.

2/1/12 AFP Newsletter

www.AmericansForProsperityFoundation.com

In 2011, Wisconsin was the site of vast union protests and intense fighting over proposed state budget reforms offered by Governor Scott Walker. Instead of raising taxes to close the state's \$3.6 billion deficit, the reforms sought to cut spending – saving taxpayers' hard-earned money. Signed on March 11, 2011, Act 10 in Wisconsin altered collective bargaining for public employees, including public school teachers and administration. Since enactment, Wisconsin school districts in particular have realized large savings with relatively minor changes to bargaining contracts.

2/16/12 AFP/Maclver

(30 second & 60 second appear to be exactly the same)

http://www.youtube.com/watch?v=PMXxd_SJaVk

http://www.youtube.com/watch?v=PMXxd_SJaVk&feature=youtu.be

Here in Wisconsin we're still facing economic challenges. But unlike many other places Wisconsin's reforms are working. I'm a state employee and while I'm paying some of my insurance and retirement costs now I know I have better benefits than most and working together we saved thousands of jobs, like mine. We've kept the cost of government in check. And property taxes saw their smallest increase in 15 years. In fact my property taxes actually went down. Mine dropped by 4% with no reduction in services. And school tax levies are down for the first time in 6 years. How did we do all this? One big reason is Wisconsin's reform plan. Our taxpayers saved hundreds of millions. And we ended the union bargaining abuses, putting the taxpayers back in control. Those savings helped Wisconsin avoid the massive tax hikes and layoffs other states have seen. There's more to do but the facts show the reforms are working. Get the facts. Get the facts. Get the facts at It's Working Wisconsin.com.

1/9/12 Walker Campaign

http://wispolitics.com/1006/FOSW_Results_60_Sec_Radio.mp3

Wisconsin finally has a governor who keeps his campaign promises. No more tax hikes, massive layoffs or budget gimmicks. You know when he ran for governor Scott Walker said he'd cut wasteful spending, eliminate the budget deficit and lower taxes. And you know what? That's exactly what he did. Governor Walker wiped out a 3.6 billion dollar deficit without raising taxes and kept thousands of teachers, firefighters and police officers on the job. He saved taxpayers at least 848 million dollars by asking government workers to contribute to their health and pension benefits like the rest of us do. In fact, overall school property taxes actually went down statewide this year thanks to the governor's budget reforms. We can't afford to go back to the days of billion dollar budget deficits, double digit tax increases and record job loss. So let's keep Wisconsin moving forward with Scott Walker.

2/27/12 Roger Hedgecock Show

<http://live.radioamerica.org/loudwater/player.pl?upload=17465&name=rhs>

Now, I have been, let me just interrupt this business about gases, gas for a minute, and, and talk a little bit because in the back of my mind I think the most important election and the one that might actually determine the outcome of the big one in November is one we don't even have a date for yet and that is the recall election of Governor Scott Walker in Wisconsin. The latest as you know by reading the news the latest brewhah there is that the, what, I don't know, how many millions of signatures were turned in, turns out a lot of them were fake, fraud, uh, forged, what have you, signatures. And, uh, we've got to get a, I've got to get an update here so let's go to the director for Americans for Prosperity in Wisconsin, the state director, he's Luke Hilgerman. Luke, welcome back to the

program, hi. [NS] Thanks for having me back on, Roger, it's great to be with you. [NS] Thank you sir. Tell me what's going on, what's the latest in Wisconsin, because I fear it's good news because I haven't read anything in the re-elect Obama chorus medias so I'm, I'm suspecting you guys are making good headway. [NS] Absolutely. Uh, things are turning around here in Wisconsin, you know uh, that we are seeing more and more citizens coming back to the side of reform. The latest polls are bearing out that people are starting to trust in what the Governor did, that it was the right decision for Wisconsin and it's moving us forward in the right direction. [NS] What's the impact of these phony signatures had on public opinion you think? [NS] The phony signatures, the 20 million dollar cost for the recalls, the continued attempts by the left to come here and influence what we've done, uh, it's not making a lot of people real happy, and, uh, we're seeing it more and more every day. [NS] Some of those reforms that were put in, we've gotten inklings in the, in the so-called mainstream press about some of the success, uh, from your standpoint what have these reforms produced for people in Wisconsin? [NS] Well, first off, they've produced about 900 million dollars in attributed savings across the span of the state from communities like Milwaukee all the way down to small communities like Marshall, Wisconsin, right in the center of the state. Uh, people are seeing this reform, they're seeing the impact these things have had on their property taxes, they're seeing the impact they've had on saving public employee jobs, and they're seeing the impact they've had on putting our state back on the right track. [NS] Reforms that included, for instance, uh, a little more contribution, 7 or 8 percent or whatever it was, from the public employees to their own retirement, helping those systems to maintain their viability, uh, what other reforms have really taken hold that people say, you know this is working? [NS] Probably one of the most important changes that the labor changes brought was the ability for people to search out on the open market, school districts, local governments, to get a better deal for their health insurance for their employees. Um, we've tracked over 30 school districts alone that have saved millions of dollars just by having that freedom to go out on the open market and find a better deal for the insurance that they're purchasing for their employees. [NS] Luke Hilgerman with us from Wisconsin. Luke, the interesting thing there is, isn't the background on that is, that the school districts had been bludgeoned by the unions to buy the union-provided insurance for those teachers at prices that were way inflated, wasn't that what he was trying to reform? [NS] That's exactly right, uh, that's what they did, um, the we, the WEA Trust here in Wisconsin uh, had a monopoly on a lot of school district insurance policies and what the Governor's policies did was basically go in and say, that's not going to happen anymore, uh, we're going to give the taxpayers the best deal that we can with their tax dollars and the districts responded by doing so and saving hundreds, er saving millions of dollars, from just going out and using tools to find a better deal. [NS] So, the, the Milwaukee paper and some of the media around there that have been so, uh, I think sympathetic to the uh, to the, the rioting in effect that was going on there at your state capitol, the fleabagger senators who had fled the state, all that stuff that was going on last year, have they come around and started

to describe this stuff, cause they seem to be pretty much anti-Scott Walker? [NS] Uh, they're coming around a little bit, you know, every once in a while you'll open up the uh paper and you'll see a positive editorial about guess what the sky didn't fall, um, things aren't as bad as we thought they would be, and uh, you know, maybe this isn't uh, the uh, the horrible scenario everybody thought it was going to be and they were selling people down that, that river. Um, you know, I think it's starting to turn and I think it's starting to turn at the citizen level, thanks to efforts like our Its Working Wisconsin project which is going out arming thousands of citizens with the facts about what these reforms have done. Um, we're engaging them at their level, going out, talking to them, answering their questions, presenting an unbiased opinion that comes from the budget experts at the non-partisan Legislative Fiscal Bureau and from reporters in communities across the state just saying, look at this is what these things have saved. [NS] Well, Luke Hilgerman with us from Americans for Prosperity, state director there is Wisconsin. Luke, uh, what's the timetable here, I mean, we got estimates of when this in the summertime this election would be on the recall, uh, any further word on that? [NS] Uh, the Government Accountability Board is currently reviewing the signatures; I believe they have until early next week to complete that process. As you know, there's been a lot of back and forth as to what they're actually doing, if they're really giving them the look-over that they deserve. Um, and then we have a bunch of citizen-lead groups here in Wisconsin, Verify the Recall is one of them, um, tea-party lead groups that are going out, doing data entry and entering in all of the names that signed these petitions. Um, there's going to be, the GAB has said they're not sure if they're going to accept the model that these people are bringing forward, um, but I think that at the end of the day they're going to have their day in court and they're going to push hard to make sure that, you know, the integrity of this election is upheld. [NS] Very interesting, we're going to keep following this, Luke, thank you very much for the report and we'll, uh, continue to follow it. Saving Scott Walker it seems to me, is going to help us a lot in November in the overall election, defeating these unions and making them spend all that money, is going to do nothing but inure to our benefit in getting rid of Barack Obama as well. Luke Hilgerman, thanks for being with us, man, appreciate it. [NS] Thanks Roger. [NS] Uh, so there you go from Wisconsin.