



May 31, 2019

The Honorable Hannah-Beth Jackson  
Chair, Senate Standing Committee on Judiciary  
California State Senate

The Honorable Andreas Borgeas  
Vice Chair, Senate Standing Committee on Judiciary  
California State Senate

The Honorable Benjamin Allen  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Anna M. Caballero  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Brian W. Jones  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Bill Monning  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Henry I. Stern  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Thomas J. Umberg  
Senate Standing Committee on Judiciary  
California State Senate

The Honorable Bob Wieckowski  
Senate Standing Committee on Judiciary  
California State Senate

RE: A.B. 1181 (Limon) – Oppose

Dear Chairwoman Jackson:

We, the undersigned members of InterAction and Accord Network, respectfully ask that the California State Senate not approve A.B. 1181, an act to amend Section 17510.5 of the Business and Professions Code, and to amend Section 12599.6 of the Government Code, relating to charitable organizations, because we are concerned about the negative consequences it may impose on the millions of people we serve through our programs within the U.S. and in nearly all countries around the world. Rather, we ask that the California legislature support the work currently being done through FASB and industry guidance already under way.

***Who We Are and Why This Matters to Us***

Collectively, our more than 250 member organizations manage more than \$18 billion annually in resources to eliminate extreme poverty and vulnerability, strengthen human rights, promote peace,



and ensure dignity for people in need. Our membership provides critical programming to address food security, agriculture, water sanitation and global health. Our community relies on gifts-in-kind, including pharmaceuticals, food commodities and other goods, to augment the critical, lifesaving assistance our beneficiaries require.

### ***Sector Accountability, Responsibility and Collaboration***

Over the last several years, we as a sector, have continued to make great strides in organizational accountability and transparency. InterAction was the first, in 1992, to craft Non-Governmental Organization (NGO) Standards (formerly Private Voluntary Organizational Standards) intended to ensure and strengthen public confidence in integrity, quality and effectiveness of member organizations and their programs. Accord has also established and updated complementary standards designed to assist NGO's in understanding and applying GAAP and IRS Accounting standards.

In 2018, InterAction members adopted new outcomes measurement standards and a pharmaceutical gift in kind valuation methodology intended to help organizations determine whether a product can be considered a donation and the products' domestic or international value. In 2018, the Partnership for Quality Medical Donation's board and membership adopted the methodology and in 2019 Accord's members have also come onboard.

In addition, we have been working with the Financial Accounting Standards Board (FASB) by sharing our methodology and participating in their Gifts-In-Kind Working Group to address the important and complex fair value questions raised by the Attorney General's office in California. We support the work that they are doing to research these issues and maintain the high-quality, independent standard setting, and would like to further collaborate with them going forward.

### ***Undermining Financial Standards and Creating Public Confusion***

A.B. 1181 seeks to further define fair value for Gifts-in-Kind (GIK) donations and proposes an arbitrary and unique accounting principle out of alignment with United States Generally Accepted Accounting Principles (GAAP). GAAP, recognized as the authoritative standard and uniformly applied across the United States, ensures transparent and consistent financial information for investors, donors, and other users.

If enacted, this bill would require charitable organizations to adjust the fair value of GIK contributions to the end recipient's market rather than the "principal market" as defined by GAAP and would create separate and unique "California standards" for nonprofits who seek charitable contributions in the state. This would require NGOs to maintain two sets of financial records, one to comply with



GAAP and the other to comply with California. This would not only increase non-programmatic costs to NGOs and donors, it would also undermine financial standards which are intended to foster transparency, comparability, and common understanding of charities' financial results, thereby creating confusion, inconsistencies, and misunderstanding for the public.

### *Competing State and Federal Regulations*

It is our expert opinion that there will be negative consequences if this legislation is enacted for a broad set of donations, including, for example, contracts and grants from the Federal Government, which would be in direct conflict with 2 CFR 200 Uniform Guidance, the Federal grant standards which govern the administration of billions of dollars of Federal aid each year.

A.B. 1181 would require charitable organizations to value food commodities based on their beneficiaries' locations (the end recipient's location), significantly distorting the value of food commodities compared to GAAP and 2 CFR 200 Uniform Guidance and creating a conflict between food commodities' values reported in California compared to the Schedule of Expenditures of Federal Awards (SEFA) (required for all non-profits which receive more than \$750,000 annually in Federal awards). 2 CFR 200.502 (g) explicitly states "**Valuing non-cash assistance** Federal non-cash assistance, such as free rent, food commodities, donated property, donated surplus property, must be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency." Valuing food commodities under the proposed legislation would be in direct violation with the mandated federal compliance and reporting requirement of 2 CFR 200 Uniform Guidance. Food commodity grants and contracts from the U.S. government and other multilateral organizations are an essential part of our international programming providing life-saving food security to people in need. By requiring NGOs to value food commodities according to the arbitrary location of its beneficiaries, this bill would significantly diminish the usefulness, comparability and consistency in valuation and in financial reporting across charitable organizations, as well as setting up a conflict between California standards and mandated 2 CFR 200 Uniform Guidance.

### *Unavailable Goods for Communities in Need*

If enacted, NGOs that cannot satisfy the dual expectations to value commodities to comply with the conflicting GAAP and California guidance for any reason (i.e. size, resources, etc.) may need to close programs or reduce services. In those instances, communities in need may suffer greatly with potentially subpar commodities entering the market, or no commodities or assistance arriving at all.

The costs and administrative burden for smaller organizations have significant weight in decision making. The expense and time it would take to value in-kind donations as specified by A.B. 1181 would exclude some NGOs from certain areas of international work or the way in which they respond.



Smaller NGOs often have access to more niche projects with greater flexibility than a large organization and can venture into remote villages in disasters to establish medical aid. This bill limits smaller NGOs' options in responding if they cannot support the valuation of much-needed items being given in these contexts, thereby limiting or precluding the provision of lifesaving aid during times of crises.

### *Conclusion*

We respectfully urge the California State Senate to vote “no” on A.B. 1181. Enactment of this bill would create additional unnecessary costs for NGOs and donors, confusion and misunderstanding by the public, and the potential of beneficiaries not receiving the help that is needed.

Should you or your staff have any questions or concerns, they may contact Carolyn Aeby, Vice-President, Membership & Public Engagement at InterAction, 202.552.6552 or [caeby@interaction.org](mailto:caeby@interaction.org).

Thank you for your consideration,

InterAction, the largest alliance of U.S. based international development and humanitarian organizations, non-governmental organizations (NGOs).

Accord Network, a coalition of Christ-centered relief and development organizations.

1. ADRA International
2. American Relief Agency for the Horn of Africa (ARAHA)
3. AmeriCares
4. Amref Health Africa
5. Asylum Access
6. Bethany Christian Services
7. Bread for the World
8. CARE
9. Catholic Relief Services
10. ChildFund International
11. Embrace Relief Foundation
12. Feed the Children
13. Giving Children Hope
14. Heart to Heart International
15. Helen Keller International
16. Helping Hand for Relief and Development
17. Humentum



18. International Medical Corps
19. International Relief Teams
20. International Rescue Committee, Inc.
21. Life for Relief and Development
22. MedShare International, Inc.
23. Mercy Corps
24. Mercy-USA for Aid and Development Inc.
25. PATH
26. Physicians for Peace
27. Plan International USA
28. Project C.U.R.E.
29. Project HOPE
30. Recycle for Change
31. Relief International Inc.
32. Seva Foundation
33. SPOON
34. Syrian American Medical Society
35. The Global Hunger Project
36. UNICEF USA
37. Village Enterprise
38. World Concern
39. World Hope International
40. World Learning
41. World Rehabilitation Fund, Inc.
42. World Vision U.S.
43. Zakat Foundation of America

Cc: The Honorable Toni Atkins, President pro Tempore of the Senate  
The Honorable Anthony Rendon, Speaker of the Assembly  
The Honorable Monique Limón  
The Honorable Shannon Grove, Senate Minority Leader  
The Honorable Marie Waldron, Assembly Minority Leader  
Amanda Mattson, Consultant, Senate Judiciary Committee  
Eric Dang, Consultant, Senate President Pro Tem Toni Atkins  
Darci Sears, Consultant, Assembly Speaker Anthony Rendon  
Elissa Silva, Consultant, Senate Business and Professions Committee  
Anthony Lew, Assistant Attorney General, Office of Attorney General Xavier Becerra