



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

September 5, 2023

Chairman Christopher A. Coons
Vice Chairman James Lankford
Senate Select Committee on Ethics
220 Hart Senate Office Building
United States Senate
Washington, DC 20510

RE: Senator Raphael Warnock (GA)

Dear Chairman Coons and Vice Chairman Lankford,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request the Senate Select Committee on Ethics immediately investigate whether Senator Raphael Warnock violated the earned income limit or disclosure laws in violation of federal law and Senate ethics rules.

Facts. According to Senator Warnock’s 2022 financial disclosure report, he received \$154,895 from Ebenezer Baptist Church, which included \$125,000 described as “deferred compensation for services before January 20, 2021.”¹ Curiously, this was the first time Sen. Warnock reported the \$125,000 that was claimed to be earned before he was sworn in as a U.S. Senator.² Similarly, Ebenezer Baptist Church reportedly also failed to report the liability of \$125,000 in its prior financial statements for calendar years 2020 and 2021.³

Law. There are two laws that apply to the facts of this case: the financial disclosure laws and the outside earned income limit. Both are straightforward and integral components of an ethical government.

¹ Sen. Raphael Warnock, Annual Report For Calendar 2022, United States Senate Financial Disclosures, filed August 14, 2023.

² Sen. Raphael Warnock, Annual Reports for Calendar 2020 and Calendar 2021, United States Senate Financial Disclosures, filed August 16, 2021 and August 15, 2022.

³ Andrew Kerr, [With Church Salary, Raphael Warnock Blew Past Senate’s Outside Income Limit In 2022](#), The Washington Free Beacon, August 22, 2023.

Outside Earned Income Limit. “Federal law and Senate rules restrict the amount and source of outside income that Members, officers, and employees of the Senate may accept. These limits represent an attempt to preclude conflicts between the narrow interests of private employers and the broader interests of the general public.”⁴ For the calendar year 2022, a Senator was prohibited from earning more than \$29,895 from sources outside the Senate.⁵

Financial Disclosure. Federal law and Senate ethics rules require Senate candidates and Senators to disclose their financial information to the public.⁶ **As part of these disclosures, each Senator must disclose “deferred compensation” plans and the “parties, dates, and terms of the agreement must be reported.”⁷**

The disclosure requirements are critical to transparent government: accurate and timely filing is the only method for citizens to determine whether candidates and Members have conflicts of interest or are wrongfully profiting from their positions.⁸ The disclosure law is directly incorporated into Senate rules and is considered to be the “heart of the [Senate] code of

⁴ United States Senate Select Committee on Ethics, *Senate Ethics Manual*, p. 64 (2003 ed.).

⁵ U.S. Senate Select Committee on Ethics, *Financial Threshold and Limits*, available at: <https://www.ethics.senate.gov/public/index.cfm/financial-thresholds-limits>, last accessed Aug. 28, 2023.

⁶ 5 U.S.C. app 4 sec. 101-111; Senate Rules 34, 41; U.S. Senate Select Committee on Ethics, *Financial Disclosure Instructions for Calendar Year 2021* (Issued March 2022), available at: https://www.ethics.senate.gov/public/_cache/files/c6120c2b-e45b-4a2b-9d67-9f4ebfbd7fbf/cy-2021-financial-disclosure-instructions.pdf.

⁷ United States Senate Select Committee on Ethics, *Senate Ethics Manual*, p. 136 (2003 ed.). The Manual states:

Agreements or Arrangements. Any agreements or arrangements of the reporting individual concerning future employment, leave of absence during government service, continuation of payments from a private, state or local government source, deferred compensation plans (including stock options), or continued participation in an employee benefit or welfare plan of a former private employer must be disclosed. The parties, dates, and terms of the agreement must be reported. Only such agreements or arrangements by the filer need to be disclosed, not those agreements or arrangements of the spouse or dependent child of a filer.

Continued payments or benefits from a former employer include interest in or contributions to a pension fund, profit-sharing plan, or life and health insurance; buy-out agreements; and severance payments. A deferred compensation plan would include an arrangement for the delayed payment of amounts due for services rendered by a reporting individual. Deferred compensation (based on services rendered prior to Senate service) is not subject to outside earned income limitations, but must be disclosed on the Report.

Id.; U.S. Senate Select Committee on Ethics, *Financial Disclosure Instructions for Calendar Year 2022*, at 37-38 (Issued March 2023), available at: https://www.ethics.senate.gov/public/_cache/files/02ccce18-df8d-48cb-bea4-ed14b155cba6/2023-financial-disclosure-report-booklet-for-cy2022.pdf.

⁸ 5 U.S.C. app 4 sec. 101-111; Senate Rules 34, 41; U.S. Senate Select Committee on Ethics, *Financial Disclosure Instructions for Calendar Year 2022* (Issued March 2023), available at: https://www.ethics.senate.gov/public/_cache/files/02ccce18-df8d-48cb-bea4-ed14b155cba6/2023-financial-disclosure-report-booklet-for-cy2022.pdf.

conduct.”⁹ Each candidate and Senator has an affirmative duty to comply with the law and every violation has consequences.¹⁰

Analysis. According to Senator Warnock’s own filings he has apparently either violated the disclosure laws or the outside earned income limit. If the payment of \$125,000 was accurately described as deferred compensation, which would required that the agreement was reached **before** he entered into the Senate, then he should have disclosed it on his candidate financial disclosure filings and his previous financial disclosures. He cannot accept payment of \$125,0000 in 2022 and retroactively describe it as deferred compensation.

On the other hand, if the \$125,000 payment was not earned before he was sworn in as a Senator, and thus was not accurately described as deferred compensation, then he has submitted false information on a financial disclosure report and exceeded the outside earned income limit for 2022.

The fact that neither Senator Warnock nor his employer reportedly disclosed the “deferred compensation” agreement prior to it being paid in 2022 indicates that it was likely not actually deferred compensation earned before Warnock became a Senator. Nevertheless, even if the parties entered into a deferred compensation agreement before he was a Senator, it should have been disclosed before it was. When the facts presented so clearly indicate a violation has occurred, it is incumbent on the Senate Ethics Committee to investigate, inform the public to maintain citizen confidence, and hold the Senator responsible for violations should they be found.

Sincerely,

/s/Kendra Arnold

Kendra Arnold
Executive Director, Foundation for Accountability & Civic Trust

⁹ Senate Rules 34, 41; Senate Ethic Manual, U.S. Senate Select Comm. on Ethics, at 124 (2003 ed), available at: https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf (“The drafters of the original Senate Code of Official Conduct . . . considered full and complete public financial disclosure to be the heart of the code of conduct.” (internal citation and quotation marks omitted)).

¹⁰ The Ethics in Government Act does not allow Members to break the law without consequence. *See, e.g.*, 5 U.S.C. app 4 sec. 104(a)(1) (providing for a civil penalty not to exceed \$50,000); sec. 104(a)(2) (making it unlawful for any person to knowingly and willfully fail to file or report any information required under section 102, with penalties of up to \$50,000 and imprisonment of not more than one year); sec. 104(d) (providing for a late filing fee of \$200); *see also* Senate Select Comm. on Ethics, available at <https://www.ethics.senate.gov/public/index.cfm/financialdisclosure> (“Any individual who is required to file a report and files such report more than 30 days after the due date, or, if an extension is granted, more than 30 days after the last day of the filing extension period, **shall be subject to a \$200 penalty.**” (emphasis in original)).