Nonprofit Champion | January 23, 2023

Publisher's Note: *Welcome to the* Nonprofit Champion*, the new version of our biweekly public policy newsletter.*

The Debt Limit and Charitable Nonprofits

Last week the Treasury Department announced that the U.S. had reached the statutory borrowing limit of $31.4 trillion and is now taking "extraordinary measures" designed to postpone default on the federal government's debts as long as possible, perhaps until early June. Speaker McCarthy (R-CA) said he wants to negotiate a deal: in exchange for raising the limit on future borrowing to pay the country's obligations, House Republicans demand cuts to discretionary and mandatory spending programs, such as Medicare and Medicaid. Backing up McCarthy's position, a group of House conservatives is preparing a "payment prioritization plan" to cover about 80% of spending in case of a default. Many conservative Members of Congress are demanding a return to Fiscal Year 2022 spending levels, which would require cuts to discretionary spending, somewhere on the order of $130 billion. For their part, the President and Senate Democrats are saying they won't negotiate over raising the debt ceiling. Senate Majority Leader Schumer (D-NY) stated bluntly: "A default would be catastrophic for America's working families and lead to higher costs," and that "[t]here should be no political brinkmanship with the debt limit."

The political showdown and potential federal government shutdown exacerbate existing challenges charitable nonprofits are facing. Nonprofit organizations providing services funded by federal dollars could see delays in reimbursements for services previously rendered, as well as abrupt cancellations of grants and contracts. With history of these political games of chicken clear, we know that tens of thousands of nonprofits will be called on to immediately, and without additional funding or staff, provide food, shelter, and relief to millions of furloughed government employees and other individuals adversely affected by the shutdown. When a deal is reached, Congress usually agrees to cover the lost pay of laid-off government workers but rarely compensates the charitable nonprofits for their losses.

Worth Quoting

"As a firm supporter of the nonprofit sector, these organizations are the key pillars of all communities. We must continue to support and assist every nonprofit with the financial, social, and labor resources to generate solutions to some of the most pressing issues."

~ Senate Majority Leader Chuck Schumer (D-NY), speaking at an event sponsored by **Nonprofit New York**, Schumer joins nonprofits for legislative briefing, Angelique Molina-Mangaroo, *NYN Media*, Jan. 19, 2023.

Federal

FastView

Tax Policy, Race, and Ethnicity: Many tax benefits disproportionately favor white households, the Treasury Department reported in a working paper on the distribution of tax expenditures, including charitable deductions, broken down by race and ethnicity. White families represented 67% of all families in the Treasury analysis and received 91% of the benefits of the deductibility of charitable contributions. The study also found that Black and Hispanic families disproportionately benefit more from the Earned Income Tax Credit. The report estimates the distribution of eight of the largest tax expenditures for certain racial and ethnic groups, first on an overall per capita basis and then within income deciles (tenths of the income distribution). Also see the Treasury Department blog post on the report.

Taxpayer Advocate Recommends Reforms: The National Taxpayer Advocate released its Annual Report to Congress that "identifies taxpayers' problems and provides suggestions to further protect taxpayer rights and ease taxpayer burden." This year's report (the Purple Book) calls on Congress to make all uses of automobiles subject to the same **standard mileage rate** (**#59**). This would mean raising the charitable deduction, fixed at 14 cents/mile since 1997, to the same level as the business rate, currently set at 65.5 cents/mile. The report also recommends replacing the strict rules on contemporaneous written acknowledgement of charitable donations that predate the filing of tax returns with a more flexible documentation standard **(#58**); simplifying the Earned Income Tax Credit **(#51**); and strengthening protections in the Low-Income Taxpayer Clinic Program (**#63**) that many charitable organizations lead.

Non-Compete Clause Rulemaking: The Federal Trade Commission has published a notice of proposed rulemaking that addresses the legality and restrictions of non-compete clauses. The FTC defines a non-compete clause as a contractual term between an employer and a worker that blocks the worker from working for a competing employer, or starting a competing business, typically within a certain geographic area and period of time after the worker's employment ends. The proposed rule would, among other things, prohibit an employer from entering into or maintaining a non-compete clause with a worker, or representing to a worker under certain circumstances that the worker is subject to a non-compete clause. Comments are **due on March 20, 2023.** For nonprofits interested in providing feedback to the FTC, the proposed rule is open for public comment through March 10. See tips for nonprofits filing public comments.

Analysis: What's in the SECURE Act 2.0 for Nonprofits?

Several of the employee benefits provisions in the "Secure Act 2.0" passed last month are significant for nonprofit organizations. Tax expert Steven Woolf explains the provisions related to charitable giving and retirement – and why they matter to nonprofits. [Read More]

State and Local

Debt Limit Showdown: ARPA at Risk

Government officials outside Washington, DC, are warily watching the showdown over whether Congress will raise the federal debt limit, concerned that Congress may resort to clawing back funds already allocated to state and local governments under the American Rescue Plan Act (ARPA). At a conference of mayors last week, Detroit Mayor Mike Duggan expressed the concerns of many over the possibility that Congress might rescind ARPA funding during upcoming budget negotiations. He specifically urged mayors to consider spending what funds they have left before Congress acts. Should Congress revoke the state and local ARPA funds, those governments would no longer be able to invest them in the work of charitable nonprofits in communities, whether through direct grants that help nonprofits overcome the impact of the pandemic or through subawards that expand the services that nonprofits provide to their fellow residents.

Worth Reading

How Two Years of Federal Funds Are Being Used by States, Andrew Adams, *Governing*, Jan. 11, 2023.

State of the State Addresses, Budget Priorities, and Nonprofits

The year is still young, but almost every governor in the nation has already been inaugurated, made a State of the State Address, or issued budget plans for 2023 and beyond. Many key issues they announced affect nonprofits and their abilities to serve their communities. Notably, these include policies to address workforce shortages and the negative effects of inflation. Regarding rising costs, governors are pushing for income tax cuts and rebates (Colorado, Idaho, Nebraska, New Mexico, Rhode Island, Virginia, and West Virginia), which could affect charitable giving. Governors in Colorado, Nebraska, Texas, and elsewhere are promoting the following as key ways to reduce costs: **property tax reforms**, stronger **workforce policies and programs** (Connecticut, Idaho, Indiana, Missouri, New Jersey, North Dakota, and South Dakota), and **expanded child care** (Missouri, New York, and South Dakota).

Also on the top of governors' lists are perennial favorite issues like **education** (Alabama, Arizona, Arkansas, Colorado, Idaho, Indiana, Iowa, Maryland, Missouri, New Mexico, South Carolina, Texas, Virginia, and Wyoming), **housing and homelessness** (California, Colorado, Hawaii, New Mexico, Oregon Washington State , and Vermont), and **environmental issues** (Alaska, Colorado, Maryland, Vermont, and Wyoming).

California's Nonprofit Shout Out

While every chief executive boasted that their state was doing fine despite dark times everywhere else, California Governor Newsom specifically acknowledged stronger government-nonprofit partnerships. "The Administration will consider changes to address issues within the nonprofit sector to support the sector's ability to deliver on meeting goals in state programs," according to his budget proposal. CalNonprofits, the state association of nonprofits, applauded the affirmation. "The Governor's remarkable, explicit commitment," said CalNonprofits CEO Jan Masaoka, "demonstrates … awareness that the Governor's ambitious goals … lean heavily on nonprofits to provide their services and their hearts."

States Providing Natural Disaster Relief

While the campaign continues to get Congress to enact urgently needed natural disaster tax relief, some states affected by devastating storms are doing what they can to address the many challenges imposed on their residents.

- **California** will provide tax relief for residents, allowing taxpayers affected by a "presidentially declared disaster" to claim a disaster loss when filing a 2022 tax return.
- Earlier this month, **Florida** Governor DeSantis issued an executive order extending the state of emergency due to Hurricane Nicole that hit the state in early November, citing that impacted areas "require the continued support of the State of Florida."

Worth Reading

Extreme weather, fueled by climate change, cost the U.S. $165 billion in 2022, Nathan Rott, *NPR*, Jan. 10, 2023.

ARPA Investments Update

As a result of effective advocacy and outreach, nonprofits are securing investments of American Rescue Plan Act funds in areas of critical need.

- **Arts**: In **North Carolina**, Guilford County awarded ArtsGreensboro $3 million to increase organizational support and capacity building among arts organizations over three years. The nonprofit has hosted three town hall meetings this month to discuss capacity building and the sustainability of nonprofit arts organizations in the County.
- **Child Care**: Snohomish County, **Washington,** announced a $12 million plan to expand access to child care, including capital grants of between $500,000 and $2 million for nonprofits to increase capacity to serve more children. County residents identified child care as a community priority, and an estimated 80 percent of residents live in a child care desert.

Read more about Investments of ARPA funds to support the work of charitable nonprofits.

In Focus: State Giving Incentives

Restoration or creation of charitable giving incentives are already hot topics in 2023.

- As of January 1, **Massachusetts** has a charitable contributions deduction available to all its taxpayers, providing nonprofits a new option to increase fundraising revenue, after delayed implementation due to budget conflicts.
- In **Illinois,** the Endow Illinois Tax Credit legislation has been reintroduced to promote giving to endowments at community foundations. The legislation would create a tax credit equal to 25% of an endowment donation to a permanent endowment fund of a qualified community foundation and cap the total of tax credits at $50 million.
- **Missouri's** Governor proposed three new child care tax credits in his budget plan, saying the state should extend incentives to businesses for providing child care assistance to workers and encourage improvement of child care facilities.
- A bill in **Nebraska's** unicameral legislature would create an income tax credit up to 50% of the value of the food up to $2,500 for food donations to a food pantry or food bank by a grocery store retailer or restaurant.

Worth Quoting

"We as nonprofits need to join together to advocate with donors about the strategic need for funding overhead costs. Ask them, 'can you imagine what our communities would look like without nonprofits?' We can't afford to find out."

~ Sabeen Perwaiz, President & CEO, Florida Nonprofit Alliance, writing in Giving in Florida Study Reveals Fundraising Insights and Trends that Nonprofits Everywhere Can Use, *Nonprofit Essentials*, Jan. 18, 2023.

Numbers in the News

51,000

The number of parents who had to miss work in December 2022 because of child care problems, according to data from the Bureau of Labor Statistics. Lack of affordable and accessible child care impacts families and employers, and the nonprofit sector continues to face high turnover and workforce shortages in part because of this challenge.

Source: Lots of Californians are leaving the workforce. The reason: Lack of child-care options, Samantha Masunaga, *Los Angeles Times,* Jan. 19, 2023. Learn more about nonprofit workforce shortages.

Nonprofit Advocacy Events

- Jan. 24, California Policy Forum, CalNonprofits
- Jan. 25, Day at the Legislature, South Dakota Nonprofit Network
- Jan. 27, Legislative Town Hall, Montana Nonprofit Association
- Jan. 30, Annual Budget Review, Delaware Alliance for Nonprofit Advancement
- Jan. 31, Bluff City Day on the Hill, Momentum Nonprofit Partners
- Feb. 1, Nonprofit Day at the Capitol, North Dakota Association of Nonprofit Organizations
- Feb. 9, Nonprofit Day on the Hill, Utah Nonprofits Association

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Advocacy in Action

Setting the Table for Reforms

The nonprofit workforce shortages crisis is one of the, if not the, greatest challenges the charitable nonprofit sector faces today. Government policies and practices affecting nonprofit grants and contracts exacerbate that crisis; nonprofit managers and employees can't operate efficiently or effectively when forced to deal with partial payments that don't cover full costs, significantly late payments, and unnecessarily burdensome application and reporting requirements. These challenges have been documented in the past but are now getting greater attention because of a sense of urgency in fixing the workforce shortages crisis.

Thanks to nonprofit advocacy in advocacy of the 2023 legislative sessions, state senators and representatives have been introducing myriad solutions to the workforce challenge out of concern for the sector. Of particular focus has been reforming government-nonprofit grants and contracting policies and practices that hurt nonprofits, the people they serve, and taxpayers. Such a deep-in-the-weeds focus area is no accident; nonprofits have been building to this point for months and years.

More than a decade ago, the networks of the National Council of Nonprofits elevated concerns about those broken “systems” and successfully championed reforms at the federal level and a few states that were open to change. New data shows that many of the challenges and problems today remain largely the same. Learn more about Government-Nonprofit Contracting Reform. In particular, check out the menu of 16 proven solutions.

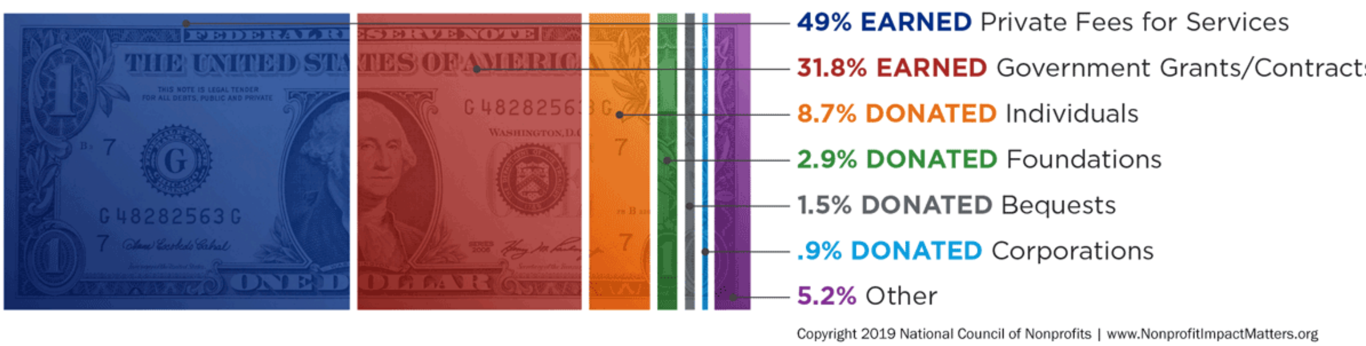
Now, in the long aftermath of the global pandemic, state associations of nonprofits and their members are launching reform campaigns. They aren’t just saying they want reforms; they are proving that the reforms are needed.

For instance, last year, the Nonprofit Association of Washington (formerly Washington Nonprofits) conducted a statewide survey seeking current data from nonprofits on which challenges need to be addressed ASAP. The report, The Nonprofit Experience with Government Contracting: Challenges & Recommendations, identifies six specific challenges in the categories of “Complex Contracting Processes” and “Financial Constraints.” The report also provides four recommendations for ways to improve the government/nonprofit partnership, including compensating nonprofits fully for their work; overcoming contracting barriers that disproportionately impact nonprofits serving BIPOC, rural, and other marginalized communities; simplifying contracting processes; and investing in capacity building. The report is a guide for advocacy efforts in the 2023 legislative session and for ongoing discussions with executive-branch officials.

Just down the coast, the Nonprofit Association of Oregon (NAO) and coalition partners conducted extensive research on the government grantmaking and contracting challenges. The result of that research (surveys, interviews, analysis of prior reports) is the recently introduced **Nonprofit Modernization Act** (S.B. 606). Among other things, the legislation would (a) establish the **Nonprofit Workforce Retention Fund** to provide grants to qualifying nonprofits to increase compensation and reduce turnover among employees; (b) set a minimum rate that state agencies may compensate nonprofits for **indirect costs** related to providing services; and (c) establish a **Task Force on Modernizing Grant Funding and Contracting** to develop solutions to longstanding problems. The Oregon state association of nonprofits is expanding the advocacy efforts this week through public meetings as it lobbies for the bill.

Late last year, **CalNonprofits** issued a letter calling for improved nonprofit contracts with government. The letter, signed by 553 nonprofit, philanthropic, and other community leaders, identifies six areas of improvement, namely contract startup funds; multiyear contracts and prompt renewal; prompt payment; flexibility in emergencies; full-cost reimbursement, and equitable access to state contract opportunities. Read the press release. As a demonstration of the impact of the letter and past advocacy efforts on behalf of the nonprofit sector, Governor Newsom referenced the need for contracting reforms in his budget address this month.

The significance of the broken government-nonprofit grants and contracts problem is perhaps demonstrated best when considering that the charitable nonprofit sector, as a whole, earns almost a third of its revenues by delivering services to the public on behalf of governments through grants and contracts. These data are not a business model, as each individual nonprofit has its own revenue mix (there is no standard one-size-fits-all), but they demonstrate that broken grants and contracts affect all nonprofits and weigh the entire sector down.



Before inviting elected officials to consider important policy reforms, effective nonprofit leaders set the table with data, stories, analysis, and educated constituents. Discussed here are examples in only three states. Connect with your state association of nonprofits and find out what's cooking and what you can be doing before and during the main course that is served up during the 2023 legislative session.