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**8TH ANNUAL
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PUBLIC POLICY
FOR NONPROFITS**

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**INDEPENDENT
SECTOR**



ASSOCIATION FOR RESEARCH ON NONPROFIT ORGANIZATIONS AND VOLUNTARY ACTION

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2019 Symposium on Public Policy for Nonprofits

The July 2019 policy symposium, which was jointly sponsored by ARNOVA and Independent Sector, brought together 35 nonprofit researchers and nonprofit leaders in Washington, DC to hear short presentations and engage in discussion about a variety of proposals that the nonprofit sector may want to promote to policymakers.

The following policy briefs were presented at the symposium:

National and Community Service

- Shirley Sagawa, “Civic Apprenticeship: Build the Talent Pipeline for the Nonprofit Sector by Expanding National Service and Recognizing Its Role in Workforce Development”
- Michael Minks, “100% Youth Civic Participation Policy Agenda”

Nonprofit Advocacy and Voter Engagement

- Jeffrey Berry, “Unleashing the Nonprofit Sector”
- Ronan Brooks, “The Five-State Requirement of IRC Section 4945(f)(2)”

Tax Incentives for Charitable Giving

- Sasha Zarins, Patrick Rooney, Una Osili, and Jonathan Bergdoll, “Non-itemizer Incentives for Charitable Giving”
- Nicolas Duquette, “A Two-Tiered Charitable Contribution Credit For All American Taxpayers”

Foundation Investment in Low-Income Areas

- Kyle Caldwell, “Foundations and Opportunity Zones—An Underutilized Investment”

Regulation/Oversight

- Putnam Barber and Steven Smith, “Regulation of ‘Classic’ Community-Based Charitable Organizations”

A selection of these papers are included in this document in alphabetical order.

Unleashing the Nonprofit Sector¹

Jeffrey M. Berry, Department of Political Science, Tufts University

Few realistic policy changes could do more to enhance the nonprofit sector than enacting a handful of regulatory changes related to advocacy. No changes in law would be necessary and no increase in spending is required. These modifications are not complicated and they can quickly be put into effect. Indeed, this policy proposal only aims at clarifying what is already allowed under sec. 501(c)(3) of the tax code. And yet, these new regulations would have profound consequences.

Understandably, those nonprofits offering tax deductibility to contributors are subject to some restrictions on their political activity, such as bans on endorsing candidates or contributing campaign funds. Nonprofits can lobby but any such lobbying must not aggregate into a “substantial” part of their overall activity. The rationale for these limits is that deductibility is a tax expenditure—essentially a subsidy provided by all taxpayers to cover the itemized deductions that some take for contributions to 501(c)(3) nonprofits. It is the ambiguity of what constitutes a substantial amount of lobbying that bedevils nonprofits and, effectively, weakens the nonprofit sector by reducing its voice in public policymaking.

Evidence

The evidence that confusion over regulatory standards weakens the nonprofit sector is unequivocal. The most ambitious investigation of nonprofit advocacy is the Strengthening Nonprofit Advocacy Project (SNAP), undertaken by a partnership of Tufts University, OMB Watch, and Charity Lobbying in the Public Interest. This consortium ran a random sample survey of 990 tax filers which ultimately yielded data on 1,738 nonprofits from across the United States. Interviews were also completed with the heads of 40 of these organizations and 25 additional interviews were done with experts on nonprofits. Finally, 17 focus groups with nonprofit CEOs and board members were conducted in a diverse set of U.S. cities (Berry and Arons, 2003; Berry et al., 2003; Bass et al, 2007).

All three of these data sets point toward the same conclusion: many, if not most, nonprofit leaders are misinformed about nonprofit law. In perhaps the most revealing part of the survey, respondents were given an eight part quiz on what the law actually says. Each of the eight statements asked if it is permissible for a 501(c)(3) to engage in a particular activity. For example, can a nonprofit “support or oppose federal legislation

¹ *Manuscript submitted as part of forthcoming symposium composed of revised papers delivered at the ARNOVA-Independent Sector Nonprofit Policy Forum, Washington D.C., July 29, 2019*

under current IRS regulations?” Another asked the same, but of agency regulations rather than legislation. By and large the nation’s nonprofit heads merited a failing grade on the quiz. On only three of the questions did at least two-thirds of respondents provide the correct answer. Remarkably, on two of the eight questions respondents did worse than they would have if they had merely flipped a coin to choose their answer. On the “support or oppose federal legislation under current IRS regulations” statement, barely half got the right answer. In other words, close to half of nonprofit leaders in the United States don’t believe they have the First Amendment right to take a stand on a public policy question.

The quantitative data was buttressed by our interviews and focus groups. Most disheartening were the declarations of CEOs that the law forbade them from being involved in the governmental process. One executive told us confidently, “We’re not allowed to lobby. We’re not allowed to influence public policy.” Another said “I have to wait until a legislator contacts us.” Of course there are differences in the level of knowledge among all nonprofits. Large nonprofits such as universities and hospitals tend to be politically sophisticated and they are not held back in advocacy by a misunderstanding of the law. But mid-size and small nonprofits are much more prone to this kind of ignorance. And most nonprofits in the United States are modest in size and lack the sophistication that comes with increased scale.

Our most important finding is that ignorance of the law is linked to the lack of political representation of nonprofit clients and constituencies. Simply put, if a nonprofit’s leadership believed that it was significantly limited or forbidden to lobby, then it was much less likely to do so. We ran a number of tests to measure this but one central approach was to compare conventional 501(c)(3)s with 501(c)(3) H electors. H electors are not bound by the vague substantial standard but, rather, are given a sliding scale of what percentage of their budget may be spent on both direct and grassroots lobbying. Since H electors are a self-selected cohort who apparently wants to make sure that any lobbying they do will not be problematic, they provide a clear contrast to the rest of the nonprofit world. (H electors are about 2.5 percent of all 501(c)(3)s.) We took a particularly close look at health and human services nonprofits as it is these organizations who most commonly work with low-income and marginalized populations. They are also roughly half of 990 filers. The differences in advocacy levels turn out to be very large. Conventional nonprofits did markedly less advocacy and, thus, they did less to represent those who use their services. The bottom line is that nonprofits serve their clients with dedication and passion, except when it comes to speaking to government on their behalf.

Leadership

The regulatory environment for nonprofits is, of course, but one factor responsible for the weakness of nonprofit advocacy. Most nonprofits are small organizations and their limited resources typically push advocacy far down the priority list. More broadly, they tend not to hire those with expertise in public policymaking and their overall capacity in terms of

advocacy is usually limited. Nonprofits also find that funding sources are not interested in supporting advocacy. Government agencies generally won't fund advocacy in the grants and contracts they extend to nonprofits. Foundations are truly allergic to capacity building grants that involve advocacy, even though there is an easy workaround relating to restrictions in foundation law (Berry 2016).

Leadership within the nonprofit sector is another major factor underlying the lack of urgency on enhancing advocacy operations. Advocacy has never been a priority for leadership in the nonprofit sector and there does not appear to be anything on the horizon that would suggest a change of heart. There are some nonprofits that represent the interests of nonprofits, such as Independent Sector, which speak to the importance of the nonprofit role in the governmental process, but overall there is little voice on advocacy law under 501(c)(3). There are also state and local peak organizations, the Boston Foundation in eastern Massachusetts for example, which are active in training nonprofit leaders on advocacy law, strategy, and tactics. Generally, though, leadership in the nonprofit sector comes from trade groups aligned on the basis of issue area. And these organizations, whether composed of nonprofits working in mental health, nutrition, community development, or whatever else, do not focus on the political weakness of their membership.

This failure of leadership is also amply illustrated by the response of the nation's largest foundations to the Trump administration's attack on policies and programs embraced by these foundations. In a study of the 20 largest foundations and another 20 sizable foundations drawn at random, Berry and Goss (2018) demonstrate a striking lack of response to the challenges presented by Trump. By way of context, 75 percent of the largest foundations have a liberal orientation and just one, Templeton, leans conservative. On issues like environmental protection, diversity, and access to health care, the administration aggressively began dismantling existing policy favored by liberals. And the response of these liberal foundations? Berry and Goss found timidity. These very large, prestigious foundations didn't speak out, much less engage in active advocacy, during the period covered in the research (most of 2017). It was clear that there was a great deal of concern about violating regulations governing these types of nonprofits. It also clear that this was an exaggerated fear.

The failure of leadership to move the nonprofit sector toward a more active advocacy orientation speaks to the importance of making the regulatory changes suggested here. There have been many efforts to encourage nonprofits to become more active lobbying forces in public policymaking. But such hortatory approaches do not work and a different type of stimulus is necessary.

Policy Prescription

Three key regulatory changes are at the heart of this proposal. The first is for the Internal Revenue Service to say clearly and emphatically that it's perfectly legal for nonprofits to

lobby. Lobbying is a form of free speech and the IRS needs to say that. The initial regulations on nonprofit lobbying published in 1919 equated lobbying with disseminating “propaganda.” The IRS no longer uses this term but it continues to communicate that lobbying is a suspect activity and that chills advocacy.

Second, it’s important to define what constitutes lobbying. The ambiguities and carve outs make it difficult to understand the boundaries of permissible legislative lobbying in any precise way. If there is to be an expenditure test for conventional 501(c)(3)s, then lobbying efforts must be accorded a value in basic accounting terms. Is educating legislators different than lobbying legislators? Is preparing a research study provided to legislators a lobbying expenditure distinct from time spent talking directly to them about the research?

The third change follows from the first two. Conventional nonprofits don’t know what the threshold is for substantial lobbying and are left in an uncomfortable void as to the limits of legislative advocacy. Yet, as noted earlier, there is a relatively clear set of expenditure limits on a sliding scale for H electors. It makes no sense for conventional nonprofits, which otherwise fall under the same guidelines for qualifying for tax deductible status as do H electors, to be subject to such completely different regulatory standards.

These changes clarify existing law and easily fall within the regulatory discretion given to the IRS by Congress to implement nonprofit laws passed over the years. Still, fashioning regulations on nonprofits and implementing them are two separate endeavors. Communicating new information about lobbying standards to the nation’s more than one million 501(c)(3) nonprofits is no small task.

As a practical matter, changes like these are only going to be issued under a Democratic administration. Republican administrations have been more concerned about constricting nonprofit advocacy, not expanding it, and only a Democratic-led IRS regime would be interested both in the formulation and implementation of such regulations. Partisanship around the regulation of nonprofits actually has its origins in Republican administrations. Richard Nixon’s IRS tried to curtail new applications for tax deductible status. From Ronald Reagan’s Office of Management and Budget emerged a sweeping proposal to diminish nonprofit lobbying by creating a burdensome reporting requirement on expenditures of federal dollars.

One way of blunting conservative criticism is to make sure that churches are clearly identified as coming under these new regulations. (Religious congregations have separate filing requirements with the IRS.) Since an overwhelmed and underfunded IRS has other priorities besides the nonprofit sector, only limited resources could be committed to the implementation phase. Thus, nonprofit associations at the national, state, and local levels must provide the education and training required to make leadership and boards aware of these changes. This is doable as education and training constitute the *raison d’être* of these organizations.

Beyond the legalistic and administrative requirements is this reality: when it comes to advocacy, nonprofits function in a highly unlevel playing field. The lobbying world does not operate within a free marketplace of ideas but, rather, in a regulated environment. Advocacy by various sectors of the organizational world is structured not merely by the large differential in available resources, but also by rules that establish under what conditions such resources may be utilized.

Nonprofit advocacy can and does work (Fisher, 2019; Marwell, 2004; Meyer and Tarrow, 2018; Pekkanen, Smith, and Tsujinaka, 2014). There is extensive research documenting the impact of various types of nonprofits that are not deterred by fear or misunderstanding of the regulatory environment (Bass, Abramson, and Dewly 2014; Boris and Maronick 2012; Brown 2016; Mosley 2010, 2014). But such advocacy is far too little in scope. And this seems unlikely to change under current rules. As a result the sector that ostensibly represents those who are frail, sick, homeless, discriminated against, don't speak English, are addicted, or mentally disabled, is subjected to restrictive rules governing access to policymakers. And that's not right.

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100% Youth Participation for the Common Good Policy Agenda Proposal

Michael Minks, Vice President of Operations, YSA (Youth Service America)

This proposal is for a public policy agenda that encourages all youth, ages 5-25, in the United States to actively participate in volunteering and service, voting and civic engagement, and joining and connecting with others through community groups and organizations.

If we want people climb the civic ladder throughout their lives from volunteering, voting, and joining all the way to full time national service positions, serving in an elected or appointed public office, and working in full-time public service jobs, we should start by achieving 100% youth volunteering, 100% youth voting, and 100% youth joining rates:

100% volunteering leading to 75% service-learning, project-based learning with community impact, or action civics leading to 50% taking on social entrepreneurship or leadership roles leading to 25% serving full time national, military, or public service (approximately 1 million people each year); and from 100% voting leading to 75% ongoing individual civic participation leading to 50% community organizing or leadership of advocacy campaigns leading to 25% running for public office or serving in a public decision-making roles; and from 100% joining afterschool, extracurricular, or youth development programs leading to 75% joining community groups and organizations (including church groups, hobby groups, charitable or volunteer organizations, professional associations, community groups, book clubs, parent groups social clubs, performing arts groups, and veterans' groups) leading to 50% leading those community groups and organizations, recruiting others, or supporting them with charitable donations leading to 25% working in a full-time public service job.

That means that 100% of communities (states, cities, counties, school districts) and 100% of K-12 schools, higher education institutions, and nonprofits that serve youth or engage volunteers must offer programs that provide the opportunities for youth to participate.

We propose an agenda for the federal, state, and local governments to build the infrastructure for local communities – and organizations and schools in all communities – to engage all young people as volunteers, voters, and joiners first and to encourage more sustained civic participation throughout their lifetimes.

Need/Problem/Issue

Our vision is 100% youth participation for the common good. What do we mean by youth participation? Participation includes volunteering and service, charitable giving, voting and advocacy in a policymaking process, and connecting with those around them by joining community groups or organizations. Here's where the United States stands in 2019:

Volunteering and Service

- 22% of young people ages 15-24 volunteer, and 22% donate to charitable causes. (1)
- 26% of students say they often work on projects with real-world applications in school. (10)

Voting and Civic Engagement

- 23% of eligible first-time voters (18-19 year olds), and 28% of 18-29 year olds voted in 2018. (11)
- 23% of students rate proficient on a national civics exam, and 29% are encouraged to get involved. (12)

Connecting and Joining

- 23% of families have a child enrolled in an afterschool program, and 33% have a child in a summer learning program. (13)
- 32% of youth are a part of more than one community group. (14)

In the [introduction to the latest Volunteering in America report](#), Barbara L. Stewart, the current CEO of the Corporation for National and Community Service wrote, "Volunteers are tuned into their communities in ways that non-volunteers are not. They help their neighbors twice as often as those who sit on the sidelines. They are joiners, belonging to groups or organizations at five times the rate of those who don't volunteer. They donate to charity at twice the rate of the non-volunteer group and vote at 66 percent-higher rates." (15) If we want to improve the civic health of the country, we should start with increasing volunteer rates. To increase volunteer rates of adults, we need to increase the volunteer rates of youth ages 5-18. Just like other desired skills and behaviors, learning and practicing civic knowledge, skills, and behaviors need to be a part of growing up in America.

Even though these participation rates are at or near record-high levels, [high school and college student volunteer rates have been stagnant for the last decade](#) (1). We're still leaving 3 of every 4 young people out of actively participating in our democracy. Participation rates are even lower among youth from low-income families and racial/ethnic minorities. The civic participation gap likely mirrors the achievement and

skills gaps in education as well as many other indicators of well-being that show gaps among demographic minorities.

Data also shows that young people are more likely to volunteer when engaged through schools, youth organizations, or religious groups.

We know why young people don't participate:

- They're not asked by or connected to opportunities through caring adults / peer leaders.
- They're not taught the knowledge and skills required to participate.
- They're not able to overcome systemic barriers to participation, often a result of family income which results in underserved communities, especially racial/ethnic minorities, being left out.
- They're disaffected and disillusioned, not believing that their involvement will make a difference, or disconnected and apathetic, not wanting to participate at all.

High quality youth engagement programs ask them to get involved, teach them how to be active citizens, remove barriers to their participation, and show them that they really can make a difference both as individuals and as a generation.

Approach

The [CivX Now Coalition policy agenda](#)(2) and the [National Commission on Military, National, and Public Service Interim Report](#)(3) – among other agendas and reports published by our partner organizations – outline policy ideas that focus on:

- Funding schools, colleges and universities, and nonprofit programs through federal grant programs
- Setting requirements and/or standards (at this time, we do not advocate for any federal requirements or standards, and encourage local decision-making);
- Building infrastructure (including staffing in government agencies) to support programs and disburse significant government funding to reach all communities, especially underserved communities to increase equity;
- Providing professional development, training & technical assistance to grantees and nonprofit partners to implement policies and programs; and
- Increasing evaluation, assessment, and accountability with public reporting and recognition.

We propose a three-phase policy agenda to achieve these goals:

1. Invest in and scale up already-authorized programs.
2. Increase coordination between agencies and between the federal and state and local governments as well as private sector philanthropy and leading nonprofits.

3. When and where appropriate, pass new legislation to create new requirements or authorize new programs based on effective models funded by programs in phase I or to meet gaps that remain even after all current programs are fully funded.

This cycle also should be completed at the state and local (city, county, school district) levels.

Phase 1: Invest in and scale up already-authorized programs.

There are many programs that are already authorized, but don't have enough (or any) funding appropriated. In the short term, we recommend significantly increased appropriations for the Volunteer Generation Fund. The goals of Volunteer Generation Fund as described in the Serve America Act legislation are to:

- Assist nonprofit, faith based, and other civic organizations by expanding and improving the capacity of such organizations to utilize such volunteers;
- Spur innovation in volunteer recruitment and management practices, with the goal of increasing the number of volunteers; and
- Enable the people of the U.S. to effect change by participating in active volunteer and citizen service.

The Serve America Act authorized \$50,000,000 for fiscal year 2010; \$60,000,000 for fiscal year 2011; \$70,000,000 for fiscal year 2012; \$80,000,000 for fiscal year 2013; and \$100,000,000 for fiscal year 2014 and beyond. The FY 2019 budget included \$5,400,000 for this fund, so there could be another \$94.6 million appropriated annually under current authorization. Of the funds allocated by CNCS for this program, A) CNCS shall use 50 percent of such funds to award grants, on a competitive basis, to State Commissions and nonprofit organizations for such fiscal year; and (B) CNCS shall use 50 percent of such funds make an allotment to the State Commissions. Several state commissions already use these funds to support youth volunteer engagement, and enough increased appropriations would trigger the competitive funds to organizations other than state service commissions.

Longer term, the primary program we recommend renewing appropriations for is Learn and Serve America in the Corporation for National and Community Service budget. Learn and Serve America was previously funded at up to \$39.5 million a year and engaged 1.1 million students annually. The Serve America Act authorized funding up to \$97 million a year for subtitle B service-learning programs. Funding was completely eliminated as part of the budget agreement in April 2011 and has not been funded since, [leading to a loss of existing infrastructure and professional development in most states.](#)⁽⁴⁾ Specifically, we recommend significant new funding be authorized for three Learn and Serve America programs:

- Formula funds to states to support service-learning staff housed in State Education Agencies and provide professional development to educators as well as grants to school districts to support local service-learning coordinator positions and where

local funds are not available, student-led project implementation costs. (\$50 million in annual appropriations is authorized.)

- Youth Engagement Zones – Grants to create local networks – consisting at least one LEA (school or school district), one community college, and one community-based entity - that engages students in a defined zone (community) in service-learning by including service-learning as a part of the curriculum in all secondary schools served by the participating LEA or engaging at least 90% of students residing in the zone in service-learning activities. (\$20 million in annual appropriations is authorized.)
- Semester of Service and Summer of Service programs, which provide stipends and/or academic credit to students in underserved communities for service-learning that takes place over the course of an academic semester or summer. (Appropriations for \$10 million in grants and \$10 million in education awards are authorized.)

Additionally, we advocate for continued increases in the appropriations for other Corporation for National and Community Service programs that could put a greater emphasis on youth engagement as a priority activity, including AmeriCorps, the Social Innovation Fund, and National Days of Service grants. Volunteering for the first time in childhood is an expressway to a lifetime of civic participation. National days of service – such as MLK Day of Service, Global Youth Service Day, and 9/11 Day of Service & Remembrance – are the perfect on-ramps, especially for first-time volunteers.

Civic engagement, volunteer, or community service programs also exist as standalone programs or as one of a larger set of allowable activities in [several other federal agencies](#),⁽⁵⁾ including:

- [Department of Education](#)⁽⁶⁾ – 21st Century Community Learning Centers, Mentoring Program, Federal Work-Study Program, Center for Faith-based and Neighborhood Partnerships, Fund for the Improvement of Postsecondary Education, Federal TRIO Programs, International and Foreign language Education, English Literacy and Civics Program
 - There are also many cross-cutting opportunities in the latest Department of Education authorization bill, the Every Student Succeed Act, that could provide [support to civic engagement activities](#).⁽⁷⁾
- Department of Agriculture - 4-H Youth Development, Food and Agriculture Service-Learning Program, and Children, Youth and Families at Risk (CYFAR)
- Department of Health and Human Services - Community Coalition Partnerships for the Prevention of Teen, Pregnancy/Capacity Building for the Prevention of Teen Pregnancy, National Youth Sports Program (NYSP), Runaway and Homeless Youth - State Collaboration/Demonstration, Grants for Positive Youth Development, Family

and Community Violence Prevention Program, Child and Youth Initiative (Indian Health)

- Department of the Interior – Youth Conservation Corps and National Park Service Volunteer Programs, Services to Indian Children, Elderly and Families
- Department of Justice - Developing, Testing and Demonstrating Promising New Programs Community Capacity Development Office (Weed and Seed)
- Department of Labor - Job Corps, Apprenticeship and Training, YouthBuild
- Environmental Protection Agency - Environmental Education Grants

Most of these programs allow service-learning (or similarly named) activities as one of many possible uses, so these agencies also need to prioritize these activities when publishing NOFOs and in their review processes. Additionally, each of these agencies should provide increased training and technical assistance to grantees on these topics.

Phase II: Increase coordination between agencies and between the federal and state and local governments as well as private sector philanthropy and leading nonprofits.

Building on the work of the White House Office of Faith-Based and Neighborhood Partnerships as well as previous inter-agency working groups like the [Interagency Working Group on Youth Programs](#)(8) and the [President's Task Force on Expanding National Service](#),(9) we propose a permanent interagency working group convened by the White House Office of Faith-Based and Neighborhood Partnerships and co-chaired by CNCS and the Department of Education to implement and expand on the recommendations of the previous working groups, including:

- Coordinate federal agency initiatives, including integrating youth voice, collaborating on sharing training and technical assistance providers and content across programs and coordinating grant-making activities, including the development of a common grant application or multiple agencies funding a joint program (similar to FEMA funding the FEMA Corps AmeriCorps program through CNCS.)
- Coordinate with local governments and government agencies, including state service commissions, cities or counties with Chief Service Officers, and school districts.
 - Incentivize (but not require) K-12 schools, colleges and universities, and local governments to develop and implement a youth engagement plan. The Cities of Service initiative along with efforts by the National League of Cities and U.S. Conference of Mayors can serve as models.

- Encourage states to adopt policies similar to Maryland and Massachusetts setting statewide requirements for school districts to develop and implement service-learning or action civics plans and graduation requirements.
- Use federal funding to incentivize local funding by prioritizing local or state government matches over private sector matches for federal grants.
- Coordinate with the nonprofit and philanthropic community to ensure equitable distribution of programs and resources into communities that need it most.

Focus on strengthening institutions and organizations that reach youth, such as afterschool programs, positive youth development organizations, and extracurricular activities. Young people who belong to a youth development organizations or afterschool program have the best chance of volunteering on a regular basis, according to Professor Jim Younnis, an expert on youth and civic engagement at The Catholic University of America. (16)

Phase III: When and where appropriate, pass new legislation to create new requirements or authorize new programs.

The Corporation for National and Community Service is due to be reauthorized (last done in 2009), and the final report of the National Commission on Military, National, and Public Service due in March 2020 – along with many of the 2020 presidential candidates discussing plans for increased national service – may present an opportunity to approach this reauthorization in 2021 and create new programs.

There will need to be more discussion in the field – and collaboration among the volunteer, service-learning, national service, civic engagement, education, and social entrepreneurship fields – to develop a shared agenda instead of presenting multiple agendas that share very similar goals.

Benefits/Costs

All communities (states, counties, cities, school districts) and nonprofit organizations would have increased capacity and the financial resources necessary to implement high-quality youth engagement programs, especially in underserved communities. Private sector philanthropic funding would be better leveraged, and proven strategies and programs would be scaled up.

As a result, this should result in increased youth volunteer and voting rates – ideally to 100% over the course of the next 25 years (by the time those who are born in 2020/21 turn 25).

Finally, increasing youth volunteering, service-learning, and/or civic engagement has a triple impact:

- Young people thrive when they are able to develop a connection with a caring adult(s) and use their Sparks (passions, interests, and skills) to help others while building 21st Century Skills (Critical Thinking; Creativity, Collaboration, Communication) necessary for success in school, work, and life.
- Communities thrive when youth LeadASAP through Awareness, Service, Advocacy, and Philanthropy to achieve the Sustainable Development Goals and meet critical health, education, human service, human rights, and the environmental needs.
- Our democracy thrives when everyone has the civic skills, knowledge, habits, and dispositions to actively and effectively participate through volunteering and service, voting and civic engagement, and joining and connecting with others – and trust and faith in our institutions and policymaking processes increase.

What is Required to Implement the Proposal

Phase I requires no new authorizing legislation. It will require:

- The President recommending appropriations in his/her budget.
- The House and Senate approving increased appropriations in the federal budget. (This may also require an agreement to lift the current budget caps Non-Defense discretionary spending.)
- Departments and agencies prioritizing these activities when developing NOFOs and rubrics as well as when awarding grants.

The cost of Phase I, if both the Volunteer Generation Fund and Learn and Serve America programs were funded at the maximum amount authorized would be an additional \$191,600,000 over FY19 for a total of \$197,000,000 in total appropriations. This cost increases if you include increased appropriations for all other programs referenced to their maximum authorization; authorization amounts for these programs still need to be researched.

While a simplistic calculation that wouldn't necessarily be applicable for all program models, YSA is able to provide volunteer opportunities for youth at the cost of \$4-6/volunteer through our currently-funded CNCS programs. To provide opportunities to all K-12 age students (estimated to be 56.6 million in the 2018-2019 school year), the minimum cost would be \$226.4 million - \$339.6 million. It is certainly feasible to reach this amount when including all already authorized programs listed above.

If you assume similar results to Learn and Serve America, the cost to reach 56.6 million K-12 students could be as high as \$2.04 billion annually across all contributing departments and programs, which may be possible under current authorizations but would likely

require increased authorization levels to be passed. Federal funding could (and should) also be supplemented by state and local funding.

Phase II could be accomplished with an executive order and the cooperation of both the political appointees and career leadership of all participating departments and agencies. It's possible that implementing some recommendations may require regulation/rule changes developed by the participating departments. Specifically, one prohibition that we recommend being removed is that no CNCS funds can be used for any voter registration activities.

Phase III would require new legislation (TBD) that we recommend considering when each department is next reauthorized.

Possible concerns/objections include:

Should youth be required to volunteer? Would making participation mandatory invalidate the voluntary nature of civic participation? While our goal is 100% participation, YSA does not endorse any form of national requirement. We do support states and school districts that choose to implement their own volunteer, community service, service-learning, or civic education requirements. Just as we require students to learn math, reading, and science, we believe that local policymakers can require students to learn and practice civic participation.

Does the nonprofit sector have the capacity to engage millions of new youth volunteers? America's nonprofits can't easily manage millions of new volunteers. Through programs like the Volunteer Generation Fund, replication of effective models within nonprofit networks, and increased training opportunities, we believe that nonprofits can increase their capacity to engage more youth volunteers – especially the most common types of nonprofits that volunteers serve with, such as food banks, parks systems, environmental organizations, tutoring programs, libraries, hospitals, etc. Additionally, with a goal of 75% of students having opportunities for service-learning or action civics in school (which would count as part of the larger 100% volunteering goal) – projects that would partner with or benefit a local nonprofit, but don't require placement of volunteers – a maximum of 20 million new volunteer opportunities would be required. With nearly 80 million volunteers engaged annually, this increase is reasonable. Special, one-time projects on national days of service are another opportunity for nonprofits to engage large numbers of volunteers without changing their ongoing volunteer program. There are also countless of 'self-starter' projects that individuals, families, or small groups organize themselves at any time to volunteer without needing to be in a formal volunteer position.

Another frequently raised concern when talking about service – especially in the context of the Corporation for National and Community Service and its AmeriCorps programs – is that the federal government shouldn't pay for people to volunteer. Unlike AmeriCorps programs, youth engagement programs don't provide any stipends to volunteers (aside from youth employment programs that place youth in community service jobs, and some

program models that award modest scholarship funds after completion of the program). Rather, federal funding builds the infrastructure and capacity to support this engagement.

While some may argue that it's the role of the nonprofit and philanthropic sectors to increase volunteering and other forms of civic engagement, we believe that government needs to play a role in building the systems and infrastructure to support nonprofit and philanthropic efforts and to scale proven strategies and program models. As Melinda Gates has said, "Philanthropy can play a key role in taking hard problems apart. But engaging governments is the only way to bring solutions to scale." There are many effective program models that are being implemented by nonprofits in communities across the country, but there is no national structure or commitment to ensuring that 100% of our young people have access to opportunities to serve.

The federal government should leave this to local and state government. We recommend that while the federal government set goals and standards and provide funding that all funding should go to and through state and local government agencies (state service commissions, state education agencies, local education agencies – school districts, etc.).

References/Resources (also, cited and linked throughout the proposal)

Good Intentions, Gap in Impact

https://publicpolicy.umd.edu/sites/default/files/Good%20Intentions%2C%20Gap%20in%20Action_Do%20Good%20Institute%20Research%20Brief.pdf

CivX Now Policy Agenda:

<https://www.civxnow.org/policy>

National Commission on Military, National, and Public Service Interim Report

<https://inspire2serve.gov/NCOS%20Interim%20Report.pdf>

Education Commission of the States - Service-Learning After Learn and Serve America

<https://www.ecs.org/clearinghouse/01/02/87/10287.pdf>

America's Promise Alliance - Guide to Federal Resources for Youth Development

https://ysa.org/wp-content/uploads/2019/06/guide_to_federal_resources.pdf

U.S. Department of Education - Civic Learning and Engagement in Democracy: A Road Map and Call to Action

<https://www.ed.gov/sites/default/files/road-map-call-to-action-accessible.pdf>

Every Student Succeeds Act: Mapping Opportunities for Civic Education

<https://www.ecs.org/wp-content/uploads/ESSA-Mapping-opportunities-for-civic-education.pdf>

[Pathways for Youth: Strategic Plan for Federal Collaboration](https://youth.gov/sites/default/files/IWGYPathways_for_Youth.pdf)

https://youth.gov/sites/default/files/IWGYPathways_for_Youth.pdf

Task Force on Expanding National Service Final Report

https://www.nationalservice.gov/sites/default/files/documents/Task_Force_on_Expanding_National_Service_Final_Report_to_the_President%202015.pdf

Creativity in Learning

<https://www.gallup.com/education/267449/creativity-learning-transformative-technology-gallup-report-2019.aspx>

The Center for Information & Research on Civic Learning and Engagement (CIRCLE) 2018 Election Center

<https://civicyouth.org/quick-facts/2018-election-center/>

The State of Civics Education

<https://www.americanprogress.org/issues/education-k-12/reports/2018/02/21/446857/state-civics-education/>

America After 3PM

<http://www.afterschoolalliance.org/aa3pm/>

Americans with higher education and income are more likely to be involved in community groups

<https://www.pewresearch.org/fact-tank/2019/02/22/americans-with-higher-education-and-income-are-more-likely-to-be-involved-in-community-groups/>

Growth in Volunteering is Good News for America: Discover the Value of America's 'Super Citizens'

<https://medium.com/@NationalService/growth-in-volunteering-is-good-news-for-america-acc7539f92c3>

Engaging Young People in Civic Life, Edited by James Youniss and Peter Levine

A Two-Tiered Charitable Contribution Credit for All American Taxpayers

Nicolas Duquette, Sol Price School of Public Policy University of Southern California²

American charitable giving is at a critical juncture. Following the 2017 tax reform, the share of US households who take the itemized deduction for charitable contributions is expected to decrease sharply. If policy remains on its present course, less will be given to our charities and foundations, by fewer people.

This policy memo proposes and simulates the effects of a two-tier, nonrefundable tax credit for charitable contributions. Relative to existing policy, a two-rate credit would expand access to tax incentives for charitable contributions to most Americans and increase charitable giving significantly, with significant cost savings compared to alternative policy changes.

Tax policy and charitable giving: where we stand

Charitable contributions are an important contributor to America's economy and civil society. In 2017, giving exceeded two percent of GDP.³ The itemized charitable contribution deduction supports this giving by lowering the "price" of a charitable contribution for qualifying taxpayers. It does so by subtracting the value of donations from the donor's taxable income, thus reducing their tax. The value of the contribution deduction is higher when tax rates are greater (and thus the net cost of giving lower). The donor's after-tax cost of giving has a large effect on charitable contributions.⁴

However, the itemized deduction is not useful to many donors. Most tax filers are better off taking the standard deduction, a fixed reduction in taxable income, than deducting the sum of their charitable contributions and other itemized deductions, because the standard deduction is greater than that sum and reduces their tax more. Historically, about one-third of Americans have itemized their returns in most years. The rest have received no tax subsidy for their giving or were not required to file a return at all.⁵

² Acknowledgements: I am grateful for financial support for this project from the Council of Michigan Foundations.

³ *Giving USA: The Annual Report on Philanthropy for the Year 2017*, Lilly Family School of Philanthropy, Indiana University-Purdue University Indianapolis (2018).

⁴ A large literature has demonstrated substantial effects of tax incentives on amounts given. See for example John Peloza and Piers Steel, "The price elasticities of charitable contributions: a meta-analysis," *Journal of Public Policy & Marketing*, 24 no. 2 (2005): 260–272; and Nicolas Duquette, "Do tax incentives affect charitable contributions? Evidence from public charities' reported revenues," *Journal of Public Economics* 137 (2016): 51–69.

⁵ Duquette, N. J. (2019). Founders' Fortunes and Philanthropy: A History of the US Charitable-Contribution Deduction. *Business History Review*, 93(3), 553-584. See figure 2.

The 2017 Tax Cut and Jobs Act (TCJA) is expected to reduce the share of taxpayers who itemize sharply, to just over 10%.⁶ The TCJA increased the standard deduction and restricted many itemized deductions, making the standard deduction the better option for millions of Americans who had previously itemized their returns.⁷ Such households are likely to reduce their charitable contributions.⁸ Because millions of taxpayers will no longer receive a subsidy, charitable contributions are expected to decline overall, and giving will increasingly be done by a minority of mostly high-income households who will continue to claim itemized deductions.

A two-tier giving credit

I propose a credit for charitable giving with two rates, where the generosity of the subsidy depends on the extent of the claimed giving. Specifically, a credit rate of 10% (the lowest federal income tax rate) on gifts up to two percent of adjusted gross income (AGI), followed by a 37% credit (the highest income tax rate) on any further giving, though alternative subsidy rates are discussed below. The credit is nonrefundable and limited to gifts under half of AGI; filers can choose to take the credit or the itemized contribution deduction but not both. As I will explain, a two-tier tax credit would offer a tax subsidy to all taxpayers while also containing the cost of subsidies for charitable giving.

The arithmetic of this credit is summarized in table 1. Everybody who makes a donation (and owes income tax) can take the credit. Small gifts receive a small subsidy; proportionally larger gifts receive a proportionally larger subsidy.

This simple structure offers many advantages over the existing contribution deduction. First, the two-tier credit is more equitable, since its subsidy rate is the same for all returns. More subtly, the credit is also more effective than the itemized deduction at encouraging greater giving, because it becomes more generous as taxpayers give more. By contrast, the itemized deduction rewards high income brackets, not large gifts. Its value as a percentage of the gift increases in a household's taxable income because those

⁶ Tax Policy Center, "Impact on the number of itemizers of H.R.1, the Tax Cuts and Jobs Act (TCJA), by expanded cash income level, 2018" Simulation (2018). Strictly speaking, the TCJA is not this law's name. Public Law 115-97 was called the Tax Cut and Jobs Act until the Senate parliamentarian ruled that the section giving the bill that name violated budget reconciliation rules. Analysts continue to call the law by its former name for convenience.

⁷ The TCJA made several smaller changes expected to reduce the number of itemizers in addition to its sharp increases in the standard deduction (P.L. 115-97 §11021). The deduction for state and local taxation (SALT) is now capped at \$10,000 per year, reducing the chance that filers will itemize due to high subfederal taxation (§11042). The deductibility of mortgage interest was reduced, and home equity loans are no longer deductible (§11043). Property damage outside of federally declared disasters is no longer deductible (§11044), and "miscellaneous" itemized deductions are no longer available (§11045).

⁸ Meer, J. and Priday, B.A. (2019). Tax Prices and Charitable Giving: Projected Changes in Donations under the 2017 TCJA. In *Tax Policy and the Economy*, Volume 34, ed. Moffitt.

households pay higher marginal rates, and decreases in value in the size of the gift because giving decreases taxable income. (For these reasons, Canada already implements its tax subsidies as a two-tier credit, and many other wealthy countries subsidize giving with tax credits rather than deductions.⁹)

That a deduction is worth more to those in higher tax rate brackets is obvious; the second point, that the deduction inefficiently penalizes large gifts, is subtler. To illustrate the efficiency, gain of a two-tier credit relative to the deduction, consider figure 1. The vertical axis marks the ratio of the reduction in tax received by a taxpayer to the dollars donated. The horizontal axis marks the ratio of the donation to income. A black, dashed line marks the two-tier credit. Up to 2% of income, the credit is worth 10% of the gift. For larger gifts, the value of the credit gradually approaches 37% of the gift because of the higher-rate credit tier. A solid grey line plots the value of the itemized deduction for a specific middle-class household: a married couple, making \$110,000 per year and filing jointly, with \$30,000 worth other itemized deductions. Because \$30,000 exceeds the standard deduction, they will always itemize. And because their taxable income after the other deductions is \$80,000, they are in the 22% marginal rate bracket. Therefore, their first dollars given receive a 22% subsidy rate. Once this household's giving reaches \$2600, however, their tax bracket falls down to the 12% rate on incomes between \$19,051 and \$77,400. Their tax reduction rate declines as their giving increases.

Of course, this is a visualization of a specific case. For most Americans, who do not itemize, the value of the deduction is zero until their giving and other deductions exceed the standard deduction. Understanding the effects of the credit for charitable giving and other outcomes requires a policy simulation on a representative population of tax returns capturing the itemization behavior and economic status of all Americans.

Credit effects simulation: methods and data

I simulate the effect of the two-tier credit on taxpayer behavior and administrative outcomes. First, I construct a simulated dataset of 2018 tax returns based on the most recent IRS Public Use File dataset of individual tax returns.¹⁰ For itemized returns, all variables of interest are observed directly. For non-itemizers, who do not report their charitable giving, I impute the amount of charitable contributions using survey data from

⁹ Canada has offered its taxpayers a two-tiered tax credit for charitable contributions since 1988, with no notable problems. Canada's credit is valued at the lowest tax rates for gifts up to 200 Canadian dollars, and the highest tax rate thereafter; because their income tax system is implemented by the provinces, the subsidy rates varies from province to province. The high rates range from 40.16% to 50%. France offers a tax credit worth 66 percent of the value of a donation, the highest in the world. Japan and Italy also offer their citizens a credit as a tax incentive for giving. Sources: Charities Aid Foundation, "Donation States: An International Comparison of the Tax Treatment of Donations," Policy report (May 2016). Gabrielle Fack and Camille Landais, "Are Tax Incentives for Charitable Giving Efficient? Evidence from France," *American Economic Journal: Economic Policy*, 2 no. 2 (2010): 117-41; Rachel Lowe and Bradley Minaker, "Do Tax Incentives for Charitable Giving Have Spillover Effects?" Mimeo, McMaster University (2017).

¹⁰ Internal Revenue Service (2018), Individual Public Use Tax File. Statistics of Income Division, Data File. Year 2012. National Bureau of Economic Research.

the Panel Study of Income Dynamics (PSID). To do so, I match non-itemizing tax returns to similar non-itemizing households in the PSID sample, specifically, I create matches of tax returns to all non-itemizer PSID households with the same marital status and similar total income and wage/salary income, weighted by the PSID cross-sectional sampling weights.¹¹ I compute simulated federal income tax rates and giving subsidies, and the effects of those subsidies on giving and other behaviors, for each simulated tax return, using the TAXSIM calculator hosted by the National Bureau of Economic Research and assuming a tax-price elasticity of giving of -1.0.¹² I adjust returns for inflation to 2018 dollars, and scale aggregate outcomes for population and economic growth. This process accurately predicts pre-2017 levels of giving, and closely matches the simulations of the Tax Policy Center of the TCJA.¹³

Table 2 presents estimates for 2018 outcomes under three scenarios: (1) pre-TCJA law (that is, if the TCJA had never been passed); (2) current law; (3) the addition of a two-tiered credit, with taxpayers choosing between the credit or the itemized deduction (but not allowed to claim both). I report dollar estimates for total charitable contributions and for the tax expenditure on those contributions under each scenario, as well as estimates of the number of tax returns claiming itemized deductions.

The share of tax returns that itemize will fall sharply for tax year 2018, from 48 to 17 million returns, because of the Tax Cut and Jobs Act. Charitable giving will decline as well: the simulation predicts a \$14 billion decline in giving, or about 5%, thanks to the change in incentives. The decline in dollars given is not as dramatic as the decline in the number of itemized returns for two reasons: first, a majority of households do not change itemization status, and many people give something to charity without a tax subsidy, so the decline represents the effects of lower subsidies for the minority of households affected. Second, the TCJA all but eliminated the Alternative Minimum Tax (AMT) for most filers, which actually increased giving incentives for a minority of returns who make very large donations.¹⁴ Many tax returns with tens of thousands of dollars in charitable giving and other deductions — enough that their total deductions had triggered the AMT — will now take itemized deductions against the ordinary 32 to 37% tax rate on high incomes instead of the 28% AMT tax rate, an increase in their subsidy rate of 14 to 32 percent. The greater incentive for these households, who already give large amounts, partially offsets the loss of others' incentive to give.

¹¹ This process is explained in detail in a technical appendix available separately. *Data*: Panel Study of Income Dynamics, public use dataset. Produced and distributed by the Survey Research Center, Institute for Social Research, University of Michigan, Ann Arbor, MI (2018).

¹² Daniel Feenberg and Elizabeth Coumts, “An introduction to the TAXSIM model,” *Journal of Policy Analysis and Management*, 12 no. 1 (1993):189–194.

¹³ The presented simulation explores “medium-run” effects of policy choices on giving. It does not include short-run efforts to make the most of a tax change by shifting giving between years; reports suggest many donors who expected to lose itemizer status shifted 2018 giving to 2017. (See for example Heather Joslyn, “Giving Down 2.4% in 2018’s First Quarter, Study Says,” *The Chronicle of Philanthropy* May 31, 2018.)

¹⁴ TCJA §12003 raised the AMT exemption sharply. The Tax Policy Center predicts that the number of returns subject to AMT will fall from 5 million in 2017 to 200,000 in 2018.

Because of the increased value of the contribution deduction to households previously subject to AMT, the tax expenditure cost of the deduction will rise following the TCJA, even as the number of itemizers and the total dollars given decline. Under current law, the tax expenditure on the charitable contribution deduction rises nearly 6% relative to previous policy. The greater cost of the deduction for the households who had previously been subject to AMT more than offsets the cost savings from rate reductions and reduced itemization rates for others.

Next, I simulate the effect of offering the two-tier credit. Taxpayers may choose to take the itemized deduction or the credit, but not both. This policy significantly increases contributions: giving is almost 20% higher than under current law, and 14% higher than it would have been without the TCJA. This does come at a cost: tax expenditures on charitable contributions rise by about \$45 billion, or about 78% of the increase in donations. Because this policy expands the credit to all filers with taxable income, and because it allows the taxpayer to pick the more generous subsidy from among two options, it is costly as well as beneficial.

In addition to these effects on giving and tax receipts, the credit reduces the number of households who claim itemized deductions, an additional benefit for taxpayers. Itemizing is a costly hassle: tax preparers charge about \$100 more for an itemized return than a standard deduction return, and the indirect costs to filers are even higher — equivalent to 10 to 15 hours of work.¹⁵ While claiming a credit has its own compliance costs, the two-tier credit calculation is simple and need not require filling out an additional schedule. Allowing taxpayers to choose a credit instead of a deduction reduces the number of itemized returns by about three million, implying nationwide total savings of hundreds of millions of dollars in tax preparation fees and over 30 million taxpayer workhours.

In summary, the two-tier tax credit can accomplish three desirable public policy objectives:

It would enable all Americans to receive recognition and subsidies for giving to the charitable organizations that support our civil society; (2) it would more than undo the projected decrease in charitable giving predicted to follow the TCJA; and (3) it would further simplify the process of tax filing for millions of people who would no longer prefer to itemize.

¹⁵ The time and economic costs of filing Schedule A are computed by Youseff Benzarti, “How taxing is tax filing? Using revealed preferences to estimate compliance costs,” National Bureau of Economic Research Working Paper #23903 (2017). Survey data on the fees charged by tax preparers is from the blog of the National Society of Accountants, “National Society of Accountants reports on average tax return preparation fees,” (January 27, 2017) [<https://connect.nsacct.org>].

Simulated outcomes of credit variations

The analysis above has focused on a very specific credit regime. Next, I consider the sensitivity of these projections to policy choices and the assumptions of the simulation. Specifically, I will simulate important effects of implementing the two-tier credit if the rate of subsidy above 2% of AGI differs from 37%, and if the share of AGI that must be donated before receiving the 37% subsidy rate differs from 2%, under a range of plausible tax price elasticities.

Figure 2 presents simulations of outcomes of interest when the rate on giving in excess of 2% of AGI varies from 10% (that is, a flat 10% credit) to 50% (half the value of the additional giving). The top panel of the figure plots the additional charitable contributions the credit induces on the vertical axis, against the higher subsidy rate on the horizontal axis. The bottom panel plots the ratio of additional contributions to foregone tax revenues—the “bang for buck” of the policy—against the top subsidy rate. A thick black line plots simulations using a tax-price elasticity of giving of

-1.0. Green bands display a range of simulations with taxpayer responsiveness ranging from -1.3 to

-0.7, giving the reader a sense of the range of plausible policy outcomes.¹⁶

Higher rates encourage more giving and do so more efficiently than low rates. A flat rate of 10% encourages more giving, but almost certainly by less than it decreases tax revenues. Under the baseline simulation, the credit induces more giving than it costs in foregone tax for rates over 25%, and a credit with a higher-tier subsidy rate of 50% induces nearly 150% of its tax cost in additional giving. These efficiencies are possible because as rates increase, (1) the stronger incentive effect means more subsidy goes to new giving, rather than existing giving, and (2) more taxpayers choose to claim the credit instead of the deduction, improving efficiency.

Of course, efficient and cheap are not the same thing. A credit with a 50% top subsidy rate would increase giving by \$120 billion, but at an additional cost to Treasury of \$80 billion. While this would not make US giving subsidies excessively costly relative to peer countries, this change might be more than the current legislative environment can countenance.

¹⁶ The response of taxpayers to tax incentives for giving is typically quantified as a “price elasticity,” or the proportional response of giving to changes in the after-tax cost of the gift. Most estimates of this elasticity are between -1.1 and -1.2, so that a 10% decrease in the after-tax cost of giving leads to a 11-12% increase in giving. The baseline estimates assume an elasticity of -1.0, a somewhat conservative elasticity. The green bands encompass estimates from -1.3 (on the higher end of the literature’s consensus) to -0.7 (which one relatively recent paper estimated by adding in state-level deductions and subtracting temporary tax-shifting behaviors). Sources: Jon Bakija and Bradley Heim, “How does charitable giving respond to incentives and income? New estimates from panel data,” *National Tax Journal* 64 no. 2 (2011):615–650; James Andreoni, “Philanthropy,” in S. Kolm and J. Ythier, editors, *Handbook of the Economics of Giving, Altruism and Reciprocity*, vol. 2 (2006): 1201–1269; John Peloza and Piers Steel, “The price elasticities of charitable contributions: a meta-analysis,” *Journal of Public Policy & Marketing*, 24 no. 2 (2005): 260–272

We might also consider a 10%/37% two-tier credit where the share of AGI that triggers the higher rate differs from 2%. Figure 3 again plots the new contributions induced, and the “bang for buck” of the policy, when the AGI threshold varies from 0% (a flat 37% credit rate) to over 10% of AGI. Strikingly, new contributions are not highest at a zero cutoff; instead of being disincentivized by an initial subsidy tier of 10%, some households give more to reach the higher subsidy level, making a two-tier credit more effective in absolute terms than a flat rate. Beyond a 1% threshold point, new giving steadily declines, with each percentage-point increase in the tier cutoff decreasing new giving by about \$3 billion. However, the cost-effectiveness of higher cutoff thresholds diminishes quickly, and actually begins to decrease at AGI thresholds beyond 8%. This is because the higher revenue-efficiency of giving lower average subsidies to large gifts is offset by the weakened incentive power of giving a flat 10% rate to most small gifts.

The best parameters for a two-tier credit therefore depend on the relative importance of scale, cost, and efficiency. Higher rates in the second tier encourage more giving, and are more effective at encouraging giving, but do so at a greater absolute cost in foregone revenue. Raising the threshold for the higher rate improves efficiency and reduces the tax cost of the credit, but with diminishing returns that peter out at around 8% of AGI. Higher thresholds encourage less giving in absolute terms.

Conclusion

The two-tier tax credit described in this memo expands the share of Americans who receive a tax incentive for giving, thereby increasing the funds available to our charitable organizations. The two-tier credit would do so efficiently, at a cost in tax expenditures that compares favorably to the itemized deduction. A two-tier credit would be a useful policy for building a fairer, more prosperous, and more civically engaged United States of America.

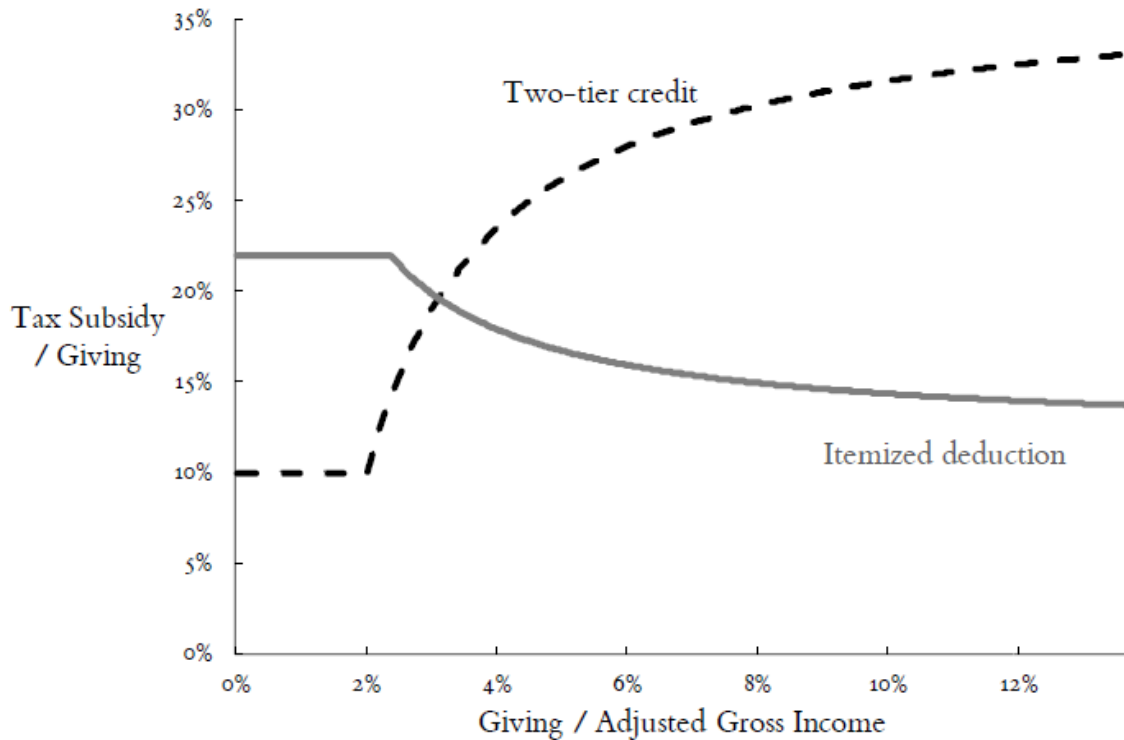
Table 1. Subsidy schedule for proposed two-tier charitable giving credit.

Marginal subsidy	Total subsidy	Minimum gift	Maximum gift
10%	$0.1 \times \text{Contributions}$	\$0	$0.02 \times \text{AGI}$
37%	$0.1 \times 0.02 \times \text{AGI}$ $+ 0.37 \times (\text{Contributions} - 0.02 \times \text{AGI})$	$0.02 \times \text{AGI}$	$0.5 \times \text{AGI}$ or credit cancels all tax owed

Table 2: Simulated policy effects of TCJA and two-tier contribution tax credit

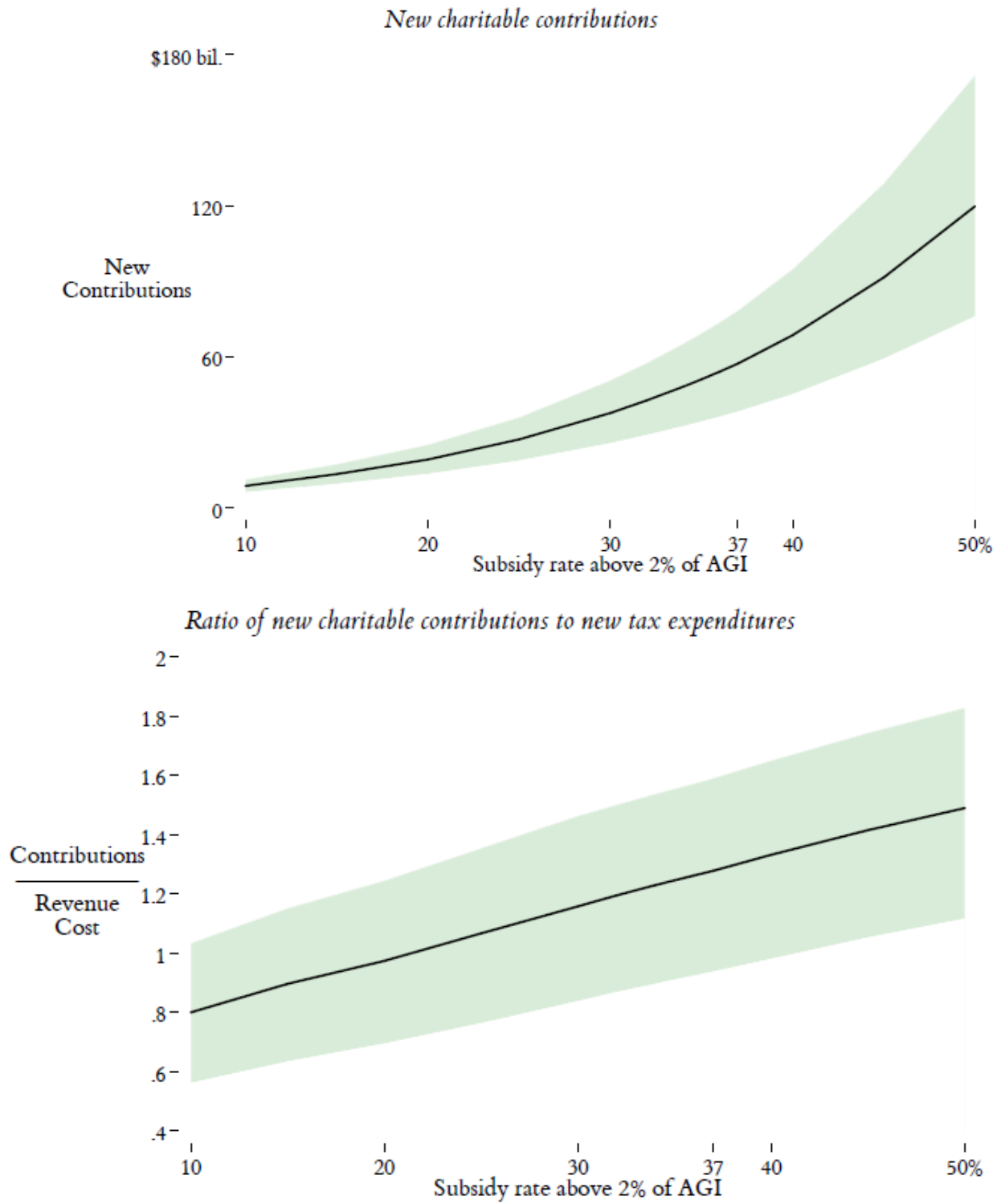
	Charitable Contributions	Tax Expenditure	Itemized Returns
(1) No 2017 tax reform (counterfactual)	\$302 billion	\$69 billion	48 million
(2) Current policy	288	73	17
(3) Current policy + credit or deduction	345	118	14

Figure 1. Ratio of tax subsidy to charitable contributions, as share of income given increases.



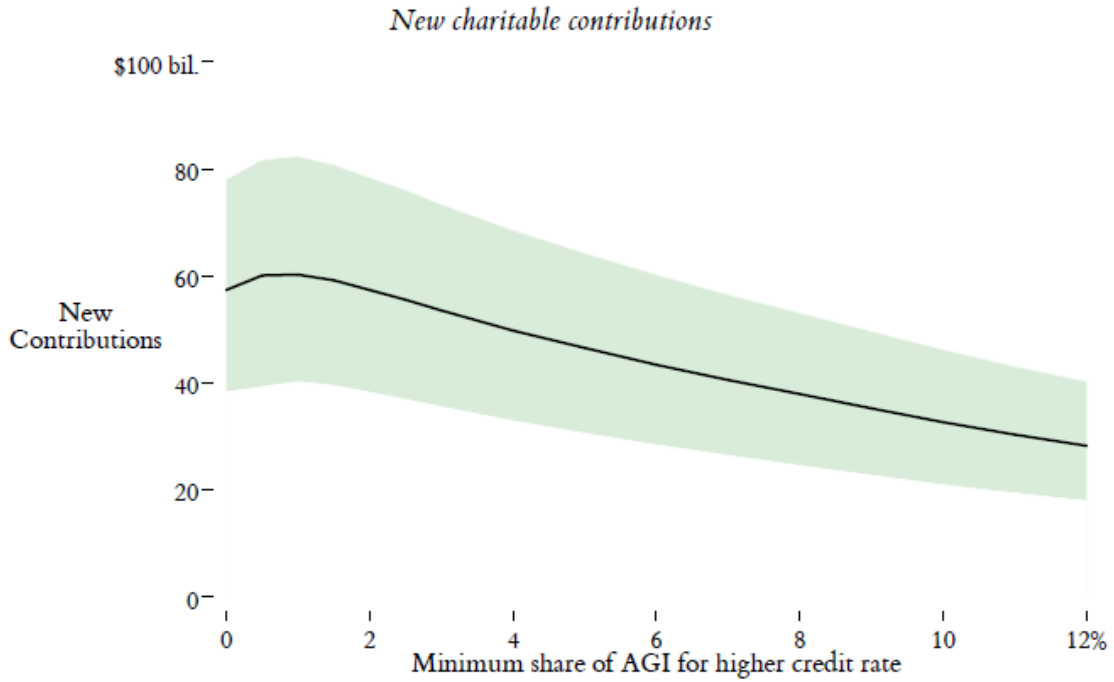
Notes: The figure plots the value of tax subsidies for charitable giving for a married couple making \$110,000 per year, filing jointly, with \$30,000 worth other itemized deductions. The horizontal axis marks the ratio of tax-subsidized giving to adjusted gross income. The vertical axis marks the ratio of the tax subsidy's value to the value of the couple's charitable contributions. Two lines plot the subsidy value for the itemized charitable contribution deduction and for the two-tier credit described in table 1.

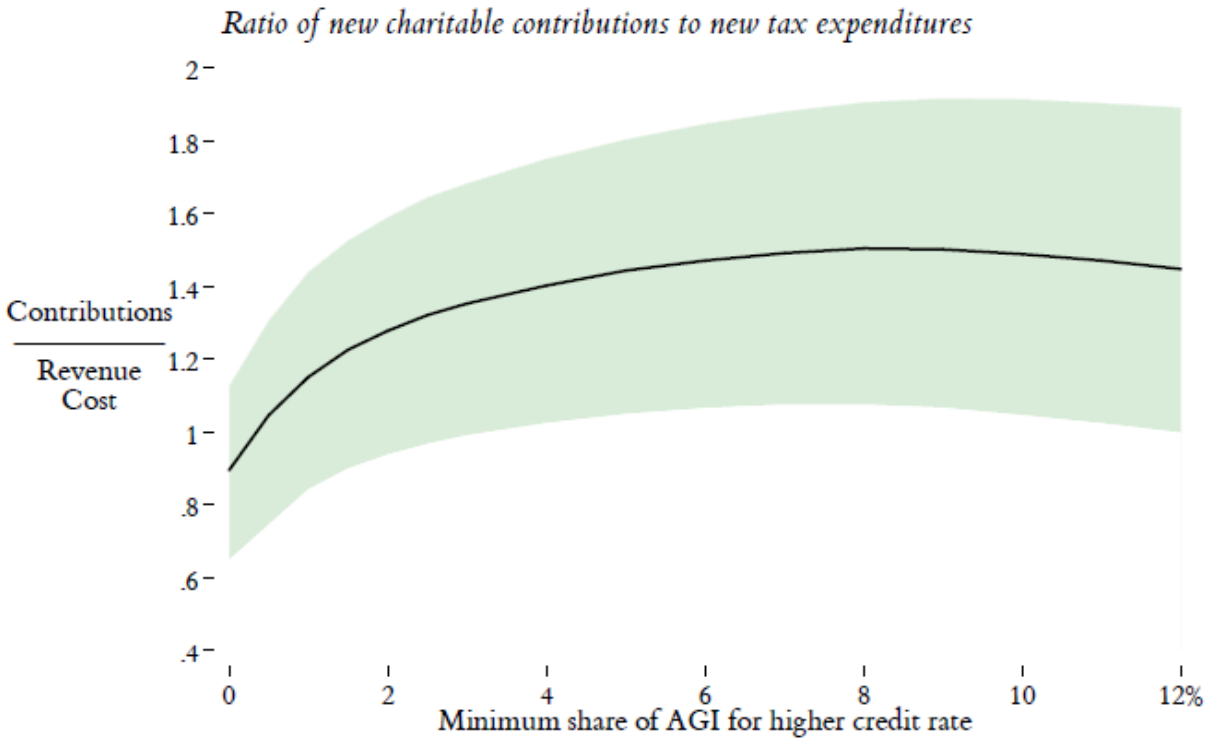
Figure 2. Outcomes of alternative subsidy rates on giving over 2% of AGI.



Notes: Black lines mark simulations under baseline assumption of taxpayer sensitivity to tax incentives. Green shading marks the range between alternative high- and low-sensitivity conditions. Simulations assume a nonrefundable credit for charitable donations of 10% on gifts up to 2% of adjusted gross income.

Figure 3. Outcomes of alternative AGI thresholds for higher credit rate.





Notes: Black lines mark simulations under baseline assumption of taxpayer sensitivity to tax incentives. Green shading marks the range between alternative high- and low-sensitivity conditions. Simulations assume a nonrefundable credit for charitable donations of 10% up to some share of AGI, and 37% thereafter.

The Five-State Requirement of IRC Section 4945(f)(2)

Ronan Brooks, University of Minnesota Law School

Section 4945(f)(2) of the Internal Revenue Code prohibits private foundations from receiving tax exemptions on contributions to charitable organizations for conducting voter registration drives, unless the drives are conducted in at least five states and over the course of more than one election cycle. This provision was adopted as part of the 1969 Tax Reform Act. Since its inception, section 4945(f)(2) has been criticized as a means of voter suppression.

Additionally, public testimony reveals section 4945(f)(2) to have been a racially motivated reaction to the role of private foundations during the Civil Rights Movement and the ensuing increase in voting by people of color. Although this provision is relatively brief, its implications are pervasive and detrimental both to the function of nonprofits and to democracy. Through analysis of the legislative history behind section 4945(f)(2) and the consequences that followed its passage, it is clear that there is an urgent need to change this provision.

Background

The history of section 4945(f)(2) and the Tax Reform Act of 1969 can be traced back to the early 1920's and 30's. In this period, case law and changes in tax legislation show a decline in the public's trust of the political activities of tax-exempt organizations. During the Truman administration, fears of the political influence of charitable organizations grew to include concerns over the potential use of these organizations as a tool for political intervention by communist governments. An early legislative change came in 1954 when Texas Senator Lyndon Johnson inserted an amendment on the Senate Floor to Internal Revenue legislation that would deny 501(c)(3) tax exemptions to organizations that influenced partisan political campaigns.

The new concerns from the 1950's spawned three congressional investigations into tax-exempt organizations. The first two investigations, known as the Cox Committee and the Reece Committee, found that tax-exempt organizations were generally conducting themselves appropriately. Congressman Wright Patman, the chair of the Select Committee on Small Business, began the final investigation, which would become known as the Patman Report. Patman conducted this investigation over a ten-year period, with eight different editions. Patman's findings would be one of the primary bases of the limitations set on tax-exempt organizations in the Tax Reform Act of 1969.

The Civil Rights Movement and Tax-Exempt Organizations

Throughout the time Patman conducted his investigation, the Civil Rights Movement advanced with aid from tax-exempt organizations. Accordingly, Patman dedicated significant portions of his report to

these efforts. In particular, Patman focused on an influx of voter registration drives in the southern United States and in northern cities, including Cleveland. In the 1960's, such voter registration drives were supported by the NAACP, the Urban League, the Congress on Racial Equity, also known as CORE, the Ford Foundation and other liberal philanthropies. Notably, in 1967, CORE received a \$175,000 grant from the Ford Foundation to register black and low-income voters in Cleveland during the mayoral election. After a closely fought and bitter contest, including complaints of police harassment of voter registration volunteers, Carl Stokes was elected mayor of Cleveland. Stokes was the first black mayor of a major U.S. city. To Patman, these voter engagement activities constituted a direct and partisan intervention into American politics.

Beyond Patman's focus on the voter registration activities of charitable organizations, he also concentrated on indirect forms of political activity. After the 1968 assassination of Rev. Dr. Martin Luther King Jr., the Ford Foundation funded efforts to preserve the Civil Rights leader's writings. Additionally, the Ford Foundation funded new collegiate programs at various southern universities to help train people of color for political careers. When Senator Robert Kennedy was assassinated, the Ford Foundation made a number of grants to organizations and individuals associated with him. Patman considered these Civil Rights leaders to have been inherently political figures. Perhaps because his political interests opposed those of these leaders, Patman deemed the Ford Foundation's efforts to have been a political abuse of charitable organizations' tax-exemptions. Patman ultimately concluded that these organizations needed to be restrained from conducting further similar activities.

The 1969 Hearings on Tax-Exempt Organizations

By 1969, the national political climate was contentious and congressional leaders were again concerned about political meddling by foundations. In preparation for drafting the Tax Reform Act, the House Committee on Ways and Means requested testimony from executives of the philanthropies implicated in the Patman Report. During the hearings, the Committee called McGeorge Bundy, Ford Foundation President, to account for the effects of their voter registration funding.

In his testimony, Bundy explicitly stated that the Ford Foundation took precautions to avoid entering "the direct political arena," as Patman had alleged in his report. Bundy explained the precautions that the Ford Foundation took before providing funding to CORE in Cleveland, "we sent a field team to Cleveland to consult with all and sundry, and one of the most important and pressing of the recommendations to continue the grant to CORE came from Mr. Taft, who was the defeated candidate in that election." Bundy advised the congressmen to focus their legislative efforts on the precautions that charitable organizations and private foundations can take to avoid direct political interference. In spite of Bundy's testimony, the Tax Reform Act of 1969 was passed into law with no mention of these precautions. Instead, with the addition of section 4945(f)(2), the Tax Reform Act generally limited tax-exemptions relating to voter registration activities. That is, private foundations could no longer receive tax exemptions on their giving to charitable organizations for voter registration drives, unless those drives were conducted in at least five states.

Attempt to Repeal the Five-State Requirement

The effects of the limitations set by section 4945(f)(2) were later plumbed in a June 30, 1983 Ways and Means Subcommittee on Oversight hearing on tax rules governing private foundations. During the hearing, Vernon Jordan, an executive of the Rockefeller Foundation, testified about what changes he thought would be appropriate in future tax legislation. In his testimony, Jordan emphasized the need to eliminate the five-state requirement of section 4945(f)(2). Jordan stated, “In order to bring a new organization into being, that organization could not, because of the Tax Reform Act of 1969, operate and do voter registration. I think that is an impediment. I would like to see that out.” Following these hearings, Jordan’s testimony was used as the foundation for an amendment in the Deficit Reduction Act of 1984 that would have eliminated the five-state requirement. However, this amendment did not make it into the Act as passed by Congress.

Since that time, this provision has received little attention and does not appear to be the subject of enforcement actions or reform proposals. There was no significant evidence of abuse of voter registration campaigns to justify the five-state provision. Instead, there is a compelling case for efforts to encourage voter participation in the face of low levels of consistent registration and voting.

Moving Forward

For national or regional organizations, the five-state requirement is achievable. Such is the case of Cambridge, MA-based Nonprofit Vote, an organization dedicated to increasing voter engagement by helping nonprofits pursue nonpartisan voter registration and education. Before Nonprofit Vote was officially founded in 2005, it employed a prominent tax attorney to obtain a section 4945(f)(2) pre-authorization letter from the IRS that attests that their work is conducted in at least five states. Qualifying in this way would not work for 95% of U.S. nonprofits, which are state or local, and so are effectively excluded from seeking private foundation funding for their voter registration activities. For the charitable organizations most likely to incorporate voter registration into their missions, private foundations are a disproportionately important revenue source. The barrier represented by section 4945(f)(2) discourages nonpartisan voter engagement activity.

Although one can never fully anticipate the impact of legislative change, repealing the five-state requirement will likely only result in positive outcomes. That is, without the geographic limitations set by section 4945(f)(2), the vast majority of U.S. nonprofits will be able to pursue nonpartisan voter registration. Since voter registration legislation differs between states, state and local nonprofits will be able to focus their engagement activities to their specific requirements. In addition, state and local nonprofits will be able to use the funding more efficiently than their national counterparts. Rather than private foundations donating to a national entity, who then disperses the funds to state and local nonprofits, private foundations will be able to give directly to the state and local nonprofits.

By enabling state and local nonprofits to participate in nonpartisan voter registration, such activities will inevitably increase in frequency. Census data shows that low-income voters (household income under \$30k per year) and Hispanic and Asian voters routinely have the lowest rates of voter turnout. According to Nonprofit Vote, voters participating in nonprofit voter engagement programs were 2.3 times more likely to be nonwhite and were 1.9 times more likely to be low-income, compared to the

populations of other equivalent programs. Further, turnout rates were 11 percent higher among voters contacted by a nonprofit, compared to those who were not. Consequently, with more nonprofits participating in nonpartisan voter registration drives, more voters will become registered and vote in their elections.

In addition to the positive consequences that would likely result from repealing the geographic limitations of section 4945(f)(2), the racist and classist fears that underscored the creation of this provision are compelling reasons for change. It is finally time to repeal the five-state requirement and appreciate charitable organizations' ability to engage voters.

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Civic Apprenticeship: Build the talent pipeline for the nonprofit sector by expanding national service and recognizing its role in workforce development

Shirley Sagawa

Nonprofit organizations are essential to the future of the nation, including building strong and healthy communities, preparing the future workforce, giving voice to the underrepresented, and playing many other vital roles. As an economic engine, the 1.6 million tax-exempt organizations in the US contributed an estimated \$985.4 billion to the US economy in 2015, more than five percent of the country's gross domestic product (GDP).¹⁷

To do this, the sector leverages the volunteer time of a quarter of the adult population, valued at \$193 billion, according to Independent Sector, and employs more than ten percent of the workforce.¹⁸ According to the Johns Hopkins Nonprofit Employment Project, the sector represents the third largest workforce in the US, behind only retail trade and manufacturing.¹⁹ In 24 states and DC, nonprofits actually employ more workers than all the branches of manufacturing combined. Nonprofits constitute a major industry in more than three-quarters of all US counties.

Despite their prominence as employers, nonprofits are rarely considered when workforce policies are developed. For example, President Trump's task force on apprenticeship expansion included a dozen industry representatives but no organization representing nonprofit employers.²⁰ Similarly, while the future of work is increasingly a subject of discussion, nonprofits are rarely mentioned in reports except in the context of their role developing workers for other industries.

In fact, there is reason to believe that nonprofits are likely to struggle in the future securing the talent they need. According to proprietary data from ZipRecruiter, an online employment marketplace, while nonprofit postings outpaced growth in both the technology and business sectors, applicants for nonprofit jobs declined to a ratio of just one opening per applicant, far below the applicant ratio in other industries.²¹ The education and health care fields, where many nonprofits operate, top the list of industries with the most job openings per unemployed worker, and workforce needs in these areas are expected to be among the fastest growing, according to the Occupational Outlook Handbook.²² While nonprofits compete with business for workers in many fields including technology and executive

¹⁷ McKeever, B. (2018, December 13). *The Nonprofit Sector in Brief 2018*. Retrieved from Urban Institute National Center for Charitable Statistics: <https://nccs.urban.org/publication/nonprofit-sector-brief-2018>
<https://independentsector.org/resource/state-profile-pennsylvania/>

¹⁸ Independent Sector. (2016, December 14). *State Profile - Pennsylvania*. Retrieved from Independent Sector:

¹⁹ Salamon, L. M. (2018). *Nonprofits: America's third largest workforce*. Johns Hopkins University

²⁰ Task Force on Apprenticeship Expansion. (2018). *Final Report to: The President of the United States*. Task Force on Apprenticeship Expansion

²¹ Marino, J. (2018, October 17). *Dwindling Talent Could Be the Nonprofit Nonstarter*. Retrieved from ZipRecruiter Blog: <https://www.ziprecruiter.com/blog/talent-shortage-nonprofit-nonstarter/>

²² Ivanova, I. (2019, February 4). These are the industries with the biggest labor shortages. *CBS News*.

management, the vast majority of nonprofits surveyed have no formal recruitment or retention strategy.²³ These limitations are likely to become exacerbated as the aging population leaves the workforce and creates greater demands for many services that nonprofit organizations typically provide older adults. Other “future of work” trends suggest an increased need for nonprofits including an escalating rate of large-scale emergencies requiring disaster response resources, growth in early childhood programs due to universal preschool policies and demand for child care, development of community-based alternatives to incarceration, and of course, preparing workers for employment in technology and other fields.

For these reasons, policymakers can no longer neglect the workforce development needs of nonprofit organizations.

A de facto workforce development system for nonprofits

National service operates as a workforce development system for nonprofits by offering individuals a paid opportunity to develop real-world skills through hands-on service. A service year before, during, or after college — or as a way to get back on track — gives Americans of all ages, but especially young adults, the chance to transform their lives, make an impact in their community, and become the active citizens and leaders our nation needs.

While rarely recognized as such, national service is a kind of “civic apprenticeship” that combines work-based learning and career development with a motivating social purpose. The evidence shows that regardless of background, a young person in full-time service learns workplace behaviors and skills, experiences a specific field, makes connections, and develops the pride that comes with a paycheck. Research demonstrates that the sense of purpose and direction developed through these experiences can inspire a young adult to pursue further education or advance on a career path, leading to future economic success, often in public service fields that are experiencing talent shortages.²⁴

While building skills that can be useful in either the public or private sector — including for-profit businesses — national service opportunities are in fact a common pathway to a set of public service careers for which few dedicated workforce development programs exist. These include a variety of nonprofit careers (50% of VISTA alums work in the nonprofit sector), conservation (12% of park service employees come from the Student Conservation Association), education and youth development (teacher preparation programs recruit heavily from AmeriCorps), and disaster response (more than half of last year’s FEMA Corps alums went on to careers in emergency management).

Studies of AmeriCorps, the largest federal national service program, confirm that corps members build both civic and 21st century job skills (such as problem solving, communication, and project

²³ Nonprofit HR. (2017). *2017 Nonprofit Employment Practices Survey*. Retrieved from Nonprofit HR: <https://www.nonprofithr.com/2017-nep-survey-new/>

²⁴ Institute of Medicine and National Research Council. (2015). *Investing in the Health and Well-Being of Young Adults*. Washington, DC: The National Academies Press.

management), and are highly likely to pursue careers in public service.^{25, 26} Recent research by Burning Glass, comparing the resumes of individuals who have completed a service year with a matched comparison group, revealed distinct patterns that differentiate service year alumni from their peers, both in the careers they forge and in the skills they develop.²⁷ For example, service year alums go on to complete bachelor's degrees at higher rates than their peers, are more likely than their peers to work in education and community and social services occupations, and are more likely than their peers to advertise skills related to leadership and organization. And while service year alums remain more concentrated in lower-paying career areas such as education and social services, service year alums without bachelor's degrees earn slightly more than their similarly educated peers five, seven, and ten years after service.

Research shows that in some cases, organizations create new jobs in order to retain the young people who serve with them.²⁸ However, because national service programs cannot guarantee a job upon completion, they have not been recognized as a form of on-the-job training. And because AmeriCorps is administered by the Corporation for National and Community Service rather than the Department of Labor or Department of Education, it is not considered a workforce development program.²⁹

Expand “Civic Apprenticeship” opportunities through national service

Over the last several years, national service has begun to rise in prominence on the public agenda, in part due to rising concerns about societal divides and college debt. Polls show strong bipartisan support for national service. Numerous presidential candidates have for the first time, offered national service proposals early in the primary season, talking about them on national television. Congressional leaders have proposed legislation to increase AmeriCorps to one million positions and provide increased college access to those who serve. Prominent Americans are backing efforts to make a year of service a common expectation and opportunity. A federal commission on military, national, and public service, is exploring ways to implement universal national service. A reauthorization of AmeriCorps is long overdue (it was last reauthorized in 2009), and it is likely that if a new President takes office, national service legislation could be considered early in the next Congress.³⁰

As federal, state, and local policymakers work to shape national service legislation, they should do so with a view toward developing the future workforce of the nonprofit sector. Policies could include:

²⁵ JBS International. (2015). *National Service Systematic Review and Synthesis of National Service Literature*. Washington, DC: Corporation for National and Community Service.

²⁶ Abt Associates Inc. (2008). *Still Serving: Measuring the Eight-Year Impact of AmeriCorps on Alumni*. Washington, DC: Corporation for National and Community Service.

²⁷ Burning Glass Technologies. (2018). *Pathways After Service: Education and Career Outcomes of Service Year Alumni*. Washington, DC: Service Year Alliance.

²⁸ McFadden, E. S., Smith, K. L., & Bang, B. (2016). *AmeriCorps: Arizona's Pipeline to Employment*. Arizona State University.

²⁹ Cielinski, A. (2018). *A Primer on Federal Employment and Training Programs for Human Services Advocates*. CLASP.

³⁰ National Commission on Military, National, and Public Service. (2019). *Interim Report*. Arlington, VA: National Commission on Military, National, and Public Service.

- Aligning expansion with workforce needs within the nonprofit sector
- Encouraging higher education and other partnerships to offer formal credentials that recognize postsecondary learning through national service
- Directing government agencies to develop national service programs to address priority needs within their jurisdictions, and to integrate specific job skill development into the programs
- Making national service a form of workforce development parallel to on-the-job training and apprenticeship, or creating a subcategory within either program
- Targeting communities with significant needs and a declining job base for increased national service funding
- Prioritizing programs that engage opportunity youth and others with barriers to employment

Growth of national service, based on current experience, would have a positive impact on the nonprofit workforce, providing both increased available human capital while preparing corps members for future work in the sector. However, it could have an even greater impact if policymakers act with this intention.

Regulation Of “Classic” Community-Based Charitable Organizations³¹

Putnam Barber³², University of Washington, Retired

Steven Rathgeb Smith³³, Executive Director, American Political Science Association; Adjunct Professor, Georgetown University

Abstract

Tax-exempt organizations in the United States are, in general, required to file regular reports on their operations with the Internal Revenue Service (IRS). These filings represent a significant burden for the filing organizations, are a critical source of information for many observers, and are relied upon by regulators and donors as indicators of the organizations’ commitment to achieving the wide variety of purposes for which the exemptions are granted. This paper recommends that the resources of the IRS be refocused so that greater attention can be paid to complex organizations, while the burden of preparing annual filings by simpler organization should also be reduced. More generally, this paper recommends that new attention be paid to the information collected and to its publication. It argues that the needs of the public and other regulatory agencies are not well-served by the current information and that the limitations on currently available information contribute to misunderstanding of and cynicism about the role of charitable nonprofits in American life.

Introduction

This paper arises out of a widespread feeling, which the authors share, that America’s nonprofit organizations are increasingly both under-regulated and faced with increasing demands for accountability, transparency, and evidence of efficacy. Others have identified and addressed these issues, of course. In this paper, we consider policy changes that would shift the attention of the Internal Revenue Service’s Tax-Exempt and Government Entities Division (TEGE) away from exempt organizations with little capacity to cause significant economic harm and toward improved capacity to oversee large and complex organizations. We propose to simplify the reporting required of the sorts of public charities we describe as “classic” and focusing it on aspects of nonprofit management which are readily observable by attentive stakeholders and characterized by clear-cut standards. In the process, we also hope to increase the role of involved whistleblowers and local regulators in addressing the

³¹ Originally prepared for presentation at the Eighth Annual Nonprofit Public Policy Symposium, July 29, 2019, in Washington, DC; a revised version was presented during the 48th annual conference of the Association for Research on Nonprofit Organizations and Voluntary Action (ARNOVA) in San Diego, November 21, 2019. The symposium is a project of ARNOVA and Independent Sector. The opinions presented here do not reflect the views of ARNOVA or Independent Sector. We are grateful for the comments and suggestions received on both occasions and for further comments by Gary Bass, Elizabeth Boris, Nathan Dietz, and Cindy Lott.

³² Corresponding author: putnam.barber@gmail.com;

³³ Executive Director, American Political Science Association; Adjunct Professor, Georgetown University

occasional lapses by smaller, geographically limited organizations. We also urge that Congress increase decisively the resources available to TEGE while directing the agency to monitor, investigate, and, when necessary, constrain the behavior of the small number of large, extremely complex organizations which do have the capacity to do financial damage as well as injury to the populations that they claim to serve.

Background

Widespread agreement and concern exist that the regulation of US charitable organizations has become increasingly ineffective in recent years. Among the many factors that are cited as contributing to this trend are:

- Increasing numbers of registered tax-exempt organizations
- Fiscal limitations on government at both the federal and the state levels³⁴
- Increasing numbers of active fundraising campaigns
- Court decisions enabling more engagement by charitable nonprofits with policymakers and in political activities
- Development of a variety of quasi-nonprofit organizations broadly described as social enterprises
- Increasing reliance on supporting organizations and complex corporate structures by large and mid-size nonprofit organizations

Policy Proposals

Improve the regulation of charitable nonprofits by:

- Simplifying registration and reporting standards for smaller tax-exempt organizations;
- Reducing the cost and complexity of compliance for “classic” community-based charitable organizations;
- Expanding capacity for the Internal Revenue Service to focus attention on large and complex public charities; and
- Increasing the value of information published by the IRS for policy makers, scholars, and the public

Change reporting requirements for smaller public charities

The overwhelming majority of US nonprofit organizations can accurately be described as “small” – by one estimate, 90% of the registered public charities had less than \$500,000 in annual revenue.³⁵ In

³⁴ The degree to which the relevant division of the IRS has been limited by budgetary constraints in recent years is documented in Treasury 2018, pp. 269ff. For information on staffing of state government charities offices, see Lott et al. 2016, p. 8.

³⁵ Estimating the number of “small” nonprofits is complicated by the filing rules of the IRS. Public charities with annual revenues between \$5,000 and \$50,000 file a simple form (the 990-N) which confirms their continued existence but includes no financial data; most organizations whose revenues are at least \$50,000 and less than \$200,000 and with year-end assets less than

contrast, a significant number of large nonprofit organizations are very complex – often comprised of multiple units within one controlling entity and several loosely integrated traditional nonprofits, social enterprise units, for-profit subsidiaries, and networks of affiliates. In 2015, 5.3% of public charities reported annual revenues of \$10 million or more³⁶ (McKeever 2018).

In these policy proposals, we argue that a subsection should be added to Internal Revenue Code §501(c) specifying the responsibilities of the Internal Revenue Service for overseeing the activities of “classic” charitable organizations and that Congress at the same time add resources to the budget for TEGE linked to encouragement to increase scrutiny of the largest and most complex filers. The “classic” charitable organizations are those that provide a wide range of familiar community and social services on limited budgets and with straightforward organizational structures. Precise definition of the distinction between the organizations described by this new subsection and those that remain within the current description would be a subject for careful legislative drafting following broad public discussion and Congressional hearings. A preliminary list of criteria might include:³⁷

- Less than a low threshold number of paid staff – perhaps as few as 20;
- Less than 3 contracts for services (other than those for legal advice and accounting);
- No wholly owned subsidiaries;
- No franchising agreements;
- No intellectual property licensing or other royalty income;
- At most one fund-raising support organization or auxiliary; and
- Supported locally, primarily by individual donors and small-scale grants and contracts.³⁸

Organizations that meet these criteria would have little scope for inflicting harm or supporting significant financial misdeeds and are also more closely integrated into the communities they serve and thus subject to ongoing informal scrutiny.

Accompanying this new provision of law governing tax-exempt organization would be new versions of the familiar Form 1023 – call it Form 1023-EZR – and Form 990 – call it 990-neo. The Form 1023-EZR would be used by newly formed “classic” charitable organizations seeking recognition as exempt from corporate income taxes. It would parallel the sections of the standard Form 1023 where the organization describes its corporate form and intended programs, lists its board members, and generally commits to engaging exclusively in charitable activities. Further, the Form 1023-EZR would

\$500,000 file a more complicated but still abbreviated form (the 990-EZ), while those which are larger file a complete Form 990. Using data for fiscal year 2015, the National Center for Charitable Statistics provides statistics that indicate that 90% of all public charities had revenues less than \$500,000 in that year (this estimate combines 990-N filers, 990-EZ filers, and 990 filers with revenue less than \$500,000).

³⁶ Including the 990-N filers in the estimate of the total number of public charities changes that result – organizations with over \$10 million in annual revenue accounted for about 1.5% of all registered public charities in 2015.

³⁷ The criterion “Compliance with the §501(h) limitations on lobbying” appeared in previous versions of this policy proposal. It has been removed. Analysis of the available data on 990-EZ filers suggested that fewer than 700 organizations have made the permitted election to be bound by the limitations on lobbying contained in §501(h) of the Internal Revenue Code. Organizations that have not elected to limit lobbying according to that test may be required to demonstrate to the IRS that the “facts and circumstances” surrounding any lobbying they have done demonstrate that their lobbying has not been excessive.

³⁸ The intention behind this criterion is to render ineligible organizations which are dependent on such a limited range of supporters that they cannot credibly operate independently.

simply require the nonprofit organization to certify that it would, for as long as it relied on the requested exemption, operate within all the limits included in the Act authorizing this form of exempt organization.

The Form 990-neo would follow the model of the recently developed Form 990-N. Filing it would be entirely online. In the body of the form, the eligible “classic” organizations would provide limited current financial information and reaffirm each of the characteristics required for eligibility. Electronic filing would make this information immediately available to the Internal Revenue Service (IRS), and hence to the public. Any eligible, currently recognized tax-exempt organization could also use the Form 990-neo for their next required Form 990 filing. Obviously, organizations that use the Form 1023-EZ to apply for recognition would use the new 990 form annually so long as their operations continued to meet the eligibility criteria. (See Figure 1 for an indication of how information on an organization’s conformity to the requirements might appear on an information return to the IRS.)

An organization that fails to meet one or more of the eligibility requirements during the reporting year would file the Form 990-neo as usual on its due date while committing (by checking a box on the form) to bring its operations into compliance within a year or to file a standard Form 990 or 990-EZ on the required filing date.³⁹ This requirement allows a one-year grace period before the more elaborate filing is required. As with all versions of the Form 990, failure to file for three successive years would result in automatic revocation of the organization’s tax-exempt status.

An outside estimate of the number of 501(c)(3) organizations that might be eligible to identify themselves as “classic” is about somewhat less than the number of 990-EZ filers – that is, less than 170,000. It would be difficult to estimate how much less given the limits on the information available on standard IRS forms.⁴⁰ It is clear that the number, no matter what the final tally, would be hardly enough to offer a serious reduction in workload for the staff of the TEGE division of the IRS.

Figure 1 about here

An advantage of the collection and publication of the information on the Form 990-neo is that these characteristics of the organizations we are calling “classic” are readily observable by staff, volunteers, donors, and (at least in some cases) by even less closely related community members. Such stakeholders might therefore be well-positioned to observe misstatements by any organization that filed an inaccurate 990-neo. Further, since filing a misleading federal report is against the law in many states, local authorities in the state where the deceptive organization operates would have a clear-cut basis for intervention. If the errors reflected only mistakes of reporting – in contrast to active efforts to evade requirements of the law – the Attorney General or Secretary of State could simply require filing of an amended return without calling undue attention to the errors. In more troubling cases, the government’s inquiry could lead to enforcement action based on the local regulator’s existing

³⁹ An organization that initially registered with the IRS using the Form 1023-neo would also be required to file an informational version of the appropriate Form 1023 at that time.

⁴⁰ Appendix A offers suggestions for making an estimate of the number of 990-EZ filers who would be excluded from the “classic” category by the other criteria described above.

authority to protect the public interest in the responsible operation of nonprofit community-service organizations.

The savings in time for record-keeping and tax-return preparation for eligible organizations would, also, be substantial. Figure 1 offers an example of the key data fields that would be required on the Form 990-neo. With the exception of the final question about the proportion of support received in relatively small amounts, these data fields will not require any filing-related specific record keeping. In addition to the streamlined reporting required in the 990-neo itself, “classic” nonprofits would not be required to file the Schedule A which is required of all Form 990 filers. Schedule A is used to calculate the public support test and thereby demonstrate continued eligibility for treatment as a public charity (and not as a private foundation). The financial information reported on the 990-neo and the certification that a majority of the filing organization’s revenue is from small gifts and grants serves the same purpose (Horne 2017).

In the normal course of events, an organization that fits the definition of a “classic” nonprofit is likely to be able to gather the necessary information in an hour or so of consultation among employees and submit it to the IRS using a now-familiar sort of online form. In contrast, the published instructions from the IRS for completing the Form 990-EZ estimate that 45 hours and \$500 in out-of-pocket expenses will result in \$1,200 “average total monetized burden” for the filing organizations (Treasury 2019s, p. 52). Given that there are approximately 170,000 990-EZ filers, this estimate of the “monetized burden” suggests that approximately \$204 million annually is not available in support of the organizations’ missions each year.

Focus IRS resources on the largest exempt entities

While simplified processing of information about “classic” organizations at the Tax-Exempt and Government Entities Division of the IRS would offer some opportunity to realign resources within the division to allow more scrutiny of complex organizations, further attention by Congress to that challenge would be welcome. Thus, we recommend that the Joint Committee on Taxation request a study by the Congressional Research Service of the Library of Congress of the additional resources, both financial and professional, that would be required if the IRS were to focus new attention on the approximately 17,000 organizations with annual revenues of \$10 million and more (McKeever 2018 at Figure 1). By concentrating on the understanding of these large and often complex organizations, the IRS could extend its capacity to identify and curtail abuse of nonprofit status by opportunistic – or simply corrupt – enterprises. Opportunistic or corrupt nonprofit organizations are admittedly relatively few; nonetheless, the goal of preserving the integrity and reputation of America’s nonprofits by preventing those few corrupt ones from operating is critical to the overall health and trust in the nonprofit sector.⁴¹

One contemporary example of the complicated challenges facing state regulators and the IRS in its exemption-granting role is the rapid growth of health care sharing organizations. These nonprofits often operate under a religious banner and seek to enroll families seeking relief from high insurance

⁴¹ The authors are grateful to Gary Bass for steering us toward this suggestion after reviewing an earlier draft of this paper.

premiums and health-care costs by creating a large cooperative network where the contributions of many participants are used to cover the medical bills of the smaller number of people who incur costs. As reported in the *New York Times* and elsewhere, health care sharing organizations may be mistaken for insurance providers by participants while they do not guarantee payment for every medical expense (Abelson 2020). In August of 2019, the Washington Insurance Commissioner fined one such organization \$150,000 and ordered it to stop offering its program in Washington state (Washington Insurance Commissioner 2019a, 2019b). (The federal law which permits health care sharing organizations requires them to have been operating since 1999; this organization was formed as a 501(c)(3) public charity in 2018.) Because this organization is based in Atlanta, Georgia, and has operated nationwide, it is likely that it continues to offer the appearance of protection against high medical bills broadly across the rest of the United States.

Align IRS data collection and publication with a broad range of policy goals

Overall, the oversight of nonprofit organizations in the United States is the responsibility of many separately authorized authorities. State government officials have common-law and statutory responsibility for many aspects of nonprofits' operations – principally fundraising and protection of charitable assets. At the federal level, the IRS oversees compliance with the requirements for tax exemption; the Federal Trade Commission has responsibility for deceptive advertising by commercial fundraising contractors; and numerous registration and licensing requirements for health-care providers, public broadcasting operations, and other specialized activities exist. In addition, many federal grant programs support significant nonprofit activities – scientific, educational, cultural, and professional – and include operating standards in their grant guidelines and proposal reviews. The data currently collected by the IRS – the single national source of information about charitable organizations – offers scant support for the design of the forms and procedures that underlie the many contacts and connections between government agencies and nonprofit organizations of every size and description. A study of the full range of data needs of state and local regulators, foundations and corporate supporters, donors (large and small), journalists, and scholars would, we believe, lead to changes in the data collected, its presentation, and its use. The result would be to strengthen the reporting nonprofit organizations and greatly enhance the public understanding of the nonprofit sector and its importance to American life.

Discussion

Generalizations about the role of nonprofits in the United States often quote from a well-known passage from *Democracy in America* by Alexis de Tocqueville. “Americans of all ages, all conditions, all minds,” he wrote, “constantly unite. ... they have commercial and industrial associations in which all take part, but they also have...associations to give fêtes, to found seminaries, to build inns, to raise churches, to distribute books, to send missionaries to the antipodes; in this manner they create hospitals, prisons, schools” (Tocqueville 1835 vol. 2, ch. 5. 2012 ed.). A scholar seeking to ascertain the extent to which this generalization is still true a couple of centuries after Tocqueville’s visits to the North American continent would quickly discover a relative paucity of official statistics to inform their

assessment of the nonprofit sector in the US. The federal government's attention to nonprofits generally is, of course, located in the Internal Revenue Service. The national data collected and published by the IRS is related to the special tax treatment of several types of nonprofits that accord, more or less, with Tocqueville's observation. Their financial affairs, and, to a limited extent, their engagement in political activities, are the limits of the information collected and published.

Organization which operate within the tradition identified by Tocqueville during his travels in the newly organized United States continue to exist to this day, of course. As demonstrated in Appendix A, though, current IRS data are not well-suited to identifying organizations that operate as the community-based associations noted by Tocqueville. This lack of data weakens both the management of such organizations and the public's understanding of the many roles of small-scale charitable organizations in American communities. It is, indeed, a good example of what Helmut Anheier and Stefan Toepler (2019) have recently described in an article titled "Policy Neglect: The True Challenge to the Nonprofit Sector."

Importantly, then, organizations eligible to be identified as "classic" in the terms suggested in this article would be similar to the small, local, and voluntarily led groups so crucial to local communities.⁴² The creation of the "classic" category would lead to the simplification of record keeping for eligible organizations; the streamlining of the responsibilities of the IRS for oversight; the additional clarity about the activities of the organizations themselves; and the enhanced ability of stakeholders and local authorities to hold them accountable. In addition to these benefits, the creation of this category would facilitate greater visibility and attention to the sorts of organizations that have been a distinctive characteristic of American culture for centuries. Indeed, the relative invisibility of organizations with these "classic" characteristics encourages the cynicism about nonprofit status which surfaces from time to time when public attention is drawn to real or imagined failings of organizations that are large and significant enough to attract media attention.

Another suggestion, growing out of our experience in preparing these policy proposals, focuses on the data currently available about America's nonprofit organizations. In Appendix A, we present observations on the analysis necessary to secure approximations of the effect on the number or organizations that might be eligible to file the new, and simplified, reports we envisage for "classic" public charities. One conclusion to draw from this attempt to use widely available data to refine a policy proposal is the inadequacy of the currently available data. This situation is not surprising, given the IRS's focus on tax-collection and regulatory compliance. The advances in technologies for data collection and processing since the creation of a category of tax-exempt charitable organizations suggest, however, that the well-developed processes for reporting to the IRS by nonprofit organizations might be extended to include more policy relevant information at little cost to either reporting organizations or the IRS. Consequently, we recommend that members of Congress with an interest in the scope and effectiveness of nonprofit organizations across the country should request that the Congressional Research Service undertake a study of the data needs of policymakers at the state and federal levels, researchers, and local nonprofit leaders and volunteers in order to improve

⁴² *Bowling Alone* by Robert Putnam (2000) documents the fading salience of small and local associations in American life.

the utility, responsiveness and accuracy of IRS forms and data collection practices.⁴³ Some of the responsibilities implied by the results might require amendments to the Internal Revenue Code, others might be achievable within the current authority given to the IRS by existing law. The report should, at the same time, include an estimate of the additional expenses, if any, the IRS would incur by the addition of the new data collection and reporting responsibilities.

The involvement of millions of Americans – donors, volunteers, patrons, and recipients – in nonprofits' services means that policymakers have an obligation that related policies and administrative procedures should be well-designed and well-understood. The data currently available go only a short part of the way toward achieving that goal. Improvement would support the development of clearer and more effective policies and, importantly, greater understanding of the contributions of the tens of thousands of community-based nonprofit organizations and the staff and volunteers to the health, safety, and cultural vitality in every part of the nation.

Conclusion

In this paper, we have outlined three practical steps which the federal government could implement to improve the operations of nonprofit organizations by:

- simplifying the reporting requirements apply to small organizations;
- increasing the oversight of very large and complex tax-exempt organizations; and
- altering the reporting requirements of and related publication of data by the Internal Revenue Service.

Adopting a simplification in registration and reporting standards would significantly reduce burdens on small and local nonprofit organizations while enhancing the ability of the Internal Revenue Service to focus attention on large and complex nonprofit enterprises. Adding to the resources of the IRS while requiring greater attention to the large organizations with significant economic power and programmatic reach would reduce the likelihood that misbehaving organizations could continue to divert resources from worthy causes and the related risk to public confidence in America's critical nonprofits and their work. And, finally, realigning the data collection and publication activities of the IRS so as to continue its attention to the enforcement of the tax laws while simultaneously providing a more robust range of information about the operations of nonprofits would improve the quality of research on nonprofits and the development of appropriate laws and regulations affecting their operations.

⁴³ In a 2019 report to Congress an independent organization within the IRS called the Taxpayer Advocate Service reported that nearly 50% of Form 1023-EZ filings in recent years have failed to demonstrate that the filing organization meets the qualifications for 501(c)(3) status. (Treasury 2019b). This finding strongly suggests that a study of the data needs of policy makers along the lines suggested in the text should also include a detailed inquiry into possible improvements in the design of Form 990-EZ and in the procedures for review of new applications for recognition as tax-exempt organizations using the form.

Appendix A

A note on the availability of data to estimate number of filers eligible for “classic” status⁴⁴

Estimating the number of 990-EZ filers who would be eligible to file as “classic” public charities is difficult because of the lack of relevant data on the 990-EZ form; the 990-EZ form does not contain the data needed to estimate the number of filers who meet each of our proposed criteria. Further, some information that is collected is not included in available data extracts for 990-EZ filers. In some of cases, it is possible to use data from the national sample of EZ filers published by IRS’ Statistics of Income division to estimate the number of EZ filers who meet these criteria. However, data for many of these variables are not even available on the full 990 form, which makes it impossible to rely upon any available data to determines the size of the population of potentially eligible “classic” public charities. The following paragraphs describe some possible methods for estimating the number of EZ filers who would be ineligible for “classic” status as a result of the criteria for eligibility the paper suggests.

- Less than a small threshold number of paid staff – perhaps as few as 20

The Form 990-EZ does not collect information on the number of employees. To estimate the number of 990-EZ filers with twenty paid staff or less, one strategy would be to extract data from Part V, line 2a of Form 990 in the Statistics of Income (SOI) national sample for just those full 990 filers who meet the EZ criteria – i.e., gross receipts of less than \$200,000 and total assets of less than \$500,000 at the end of their tax year – then multiply the actual number of EZ filers by the percentage of such organizations that have 20 or fewer paid staff.

- Less than 3 contracts for services (other than those for legal advice and accounting)

Part VI, line 51 of Form 990-EZ asks the organization to list “independent contractors that received more than \$100,000 in compensation for services, whether professional services or other services, from the organization.” The SOI national sample for 990-EZ filers can be used to estimate the percentage of EZ filers that have three or more highly-paid contracts; we can multiply the total number of EZ filers by this percentage to estimate the number of organizations with less than three contracts. Although the SOI national sample dataset contains more detailed information about the five highest-paid contractors, information about the actual services provided by the contractors is hard to extract from the dataset. It might be possible to perform textual analysis to eliminate the contracts for legal advice and accounting from the total number of contracts managed by each organization, but that would be a much more involved project.

- No wholly owned subsidiaries

Part V, line 45A of form 990-EZ asks filers to check a box if they have a "controlled entity within the meaning of section 512(b)(13)." However, only some controlled entities are wholly owned subsidiaries; Schedule R allows filers of Form 990 to report details about whether a controlled entity is a wholly owned subsidiary, but filers of Form 990-EZ are not required to complete Schedule R. (An organization

⁴⁴ The authors are grateful for the immeasurably valuable assistance with understanding the intricacies of the instructions and data fields of the several versions of IRS Form 990 that has been given by Nathan Dietz of the Do Good Institute at the University of Maryland and the Urban Institute.

that checks the box on Part V, line 45b of Form 990-EZ, but which otherwise meets the criteria for filing Form 990-EZ, may be required to file a complete 990 in addition to Schedule R.)

- No franchising agreements

According to the instructions for Form 990-EZ, organizations that are listed as the central or parent organizations in an IRS-issued group exemption letter must file Form 990. However, organizations that are affiliates within an existing group arrangement must list the group exemption number (GEN) in the header of Form 990-EZ. The SOI national sample for Form 990-EZ can be used to estimate the percentage of EZ filers that have GENs listed on their forms, and therefore are part of exempt groups. Whether the relationships among the members of such groups can be described as “franchising” cannot, though, be determined.

- No intellectual property licensing;

The SOI national sample for filers of Form 990 who meet the size criteria for Form 990-EZ will give us an estimated percentage of the number of EZ filers who report royalty income (Part VII, line 5). We can then multiply the actual number of EZ filers by this percentage, while noting an important caveat: not all royalty income comes from intellectual property rights.

- At most one fund-raising support organization or auxiliary

Both the 990-EZ and the full 990 form make it hard to get data on wholly owned subsidiaries. Schedule A (which all EZ-filing public charities need to fill out, to prove that they meet the public support test) asks about how the filer manages its supporting organizations, and about the governance structure of the supporting organizations, but not about what the supporting organizations do. Part V, line 41 of Form 990-EZ does ask the filer to report the number of states where a copy of Form 990-EZ is filed. Some states require organizations that raise funds from residents to file copies of their federal tax returns under charitable solicitations rules and a filer who lists a large number of states may use multiple fundraising firms when seeking support.

- Supported locally and primarily by individual donors

We can use the 990-EZ data extracts to estimate the percentage of total support coming from gifts and grants for all EZ filers, regardless of the reason for being a public charity. We can calculate this percentage for 141,330 public charities (84% of the number of EZ filers); the balance of the organizations have missing data and most of those have no data for Part I of Schedule A (where organizations are asked to check a box to indicate which provision of the Internal Revenue Code is the basis for their tax-exempt status).

Over 40% of EZ filers have 100% of their support coming from gifts and grants, and nearly 60% have over 90% from these sources. It might be reasonable to assume that organizations with large amounts of money from other sources are not “primarily supported locally and primarily by individual donors,” but no information is available to confirm that inference – there are no data on IRS forms that indicate exactly how many donors an organization has or that break out revenues by source in more detail than responses to this question. (This problem is not restricted to EZ filers; such data are also not available on the full 990.)

Figure 1
Key Data Fields in the Proposed form 990-neo

Financial Information		
a) Previous year-end net assets \$ _____		
b) Current year total revenue (including gifts, grants, and contributions) \$ _____		
c) Current year total (gross) program service revenue. \$ _____		
d) Current year total expenditures. \$ _____		
e) <i>Subtract</i> line d) from line b). \$ _____		
f) <i>Add</i> line e) to line a). \$ _____		
g) Current year-end net assets \$ _____		
<p>Note: If line g) does not equal line f) attach a Schedule O with an explanation of the difference</p> <p>Did the organization employ or contract with an outside firm to raise money on its behalf? Y__ N__</p> <p>If yes, list the states where the organization is registered with the state charity official in Schedule O.</p>		
Operational Information		
Number of full-time equivalent employees		If more than 20, see Instructions
Number of contracts for services supplied to the organization (not for services by the organization); do not count legal advisors and accountants assisting with filings with the IRS		If more than 3, see Instructions
Number of wholly owned subsidiaries		If more than 0, see Instructions
Number of franchising agreements		If more than 0, see Instructions
Number of intellectual property licenses		If more than 0, see Instructions
Number of fundraising support organizations or auxiliaries; do not count volunteer guilds or clubs		If more than 1, see Instructions
Proportion of total revenue in the previous fiscal year derived from personal donations of \$500 or less, fees for services, and grants not exceeding \$5000		If less than 51%, see Instructions
Certification		
The organization expects to conform to the above standards for recognition as a "classic"	<input type="checkbox"/>	If this box is not checked, the organization must file a Form 990-EZ or Form 990 for the current fiscal year. Further, if the original form filed for recognition as tax-exempt was a Form 1023-EZR,

charitable organization during the current fiscal year.		that filing must be accompanied by a completed Form 1023 or 1023-EZ.
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Instructions: If directed to this section, Form 990-neo may be filed for this reporting period by organizations that will be fully compliant within the next reporting period; otherwise file Form 990-EZ or Form 990.

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