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# Nonprofit Champion | October 2, 2023

## Federal

### Federal Government Shutdown Averted, For Now

With only hours to spare, Congress passed and President Biden signed a 45-day spending bill ([H.R. 5860](#)) that temporarily avoids a federal government shutdown by funding federal agencies and programs at current levels. Votes for passage in the House (325 to 91) and Senate (88 to 9) were strongly bipartisan. Yet serious policy differences remain, and most will be as critical or worse when the temporary measure expires on November 17. While immediate threats to food assistance and public health programs have been postponed, Congress still must deal with the expiration of pandemic-era child care supports, student loan processing challenges, and additional funding for Ukraine, a major sticking point in the run-up to the threatened shutdown. Further, the numerous “culture war” provisions tacked onto House appropriations bills – dealing with abortion and equity issues – will remain as virulent then as they are now. In short, the shutdown that some in Congress eagerly sought has been averted for only a short time; the threat to the country and the values and missions of charitable nonprofits remain real.

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## **Worth Quoting**

### *Reminders of the impact of government shutdowns on charitable nonprofits*

- "We hope those in authority and have this decision-making power consider literally the tens of thousands of families in each community that would be impacted by their inability to reach consensus."

— Leah King, President and CEO of the United Way of Tarrant County, quoted in [North Texas families, nonprofits could be impacted by government shutdown](#), Vince Sims, NBC 5 (Dallas-Ft. Worth), Sept. 27, 2023.

- "We've been working in overdrive to get food out to the people who need it. This potential federal government shutdown just adds another burden to an already stressed network."

— Radha Muthiah, President of the Capital Area Food Bank, quoted in [A Government Shutdown Is Looming: What Nonprofits Need to Know](#), Sara Hershander, *Chronicle of Philanthropy*, Sept. 29, 2023.

- "We know nonprofits fill the gaps in the social safety net that government can't or won't fill, and when the government shuts down, those gaps only become bigger. The longer the shutdown lasts, the harder this will hit nonprofits."

— [September MNA Newsletter](#), Montana Nonprofit Association, Sept. 29, 2023.

- "We know from experience that the real-world consequences of a federal government shutdown would be catastrophic for the populations our organizations serve and that you represent."

— [Letter to congressional leaders](#) from 37 national nonprofit organizations urging them to avert a federal government shutdown, Sept. 19, 2023. Learn more about the letter in the [Advocacy in Action article](#).

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## **Worth Reading**

- [From fights to a miracle: How Congress averted a government shutdown](#), Ken Tran, Sudiksha Kochi, and Savannah Kuchar, *USA Today*, Oct. 1, 2023.
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## Significant Improvements to Federal Grants Rules Proposed

Last month, the Biden Administration announced significant proposed [changes to the rules governing federal grantmaking](#) that would correct longstanding challenges that have limited nonprofit effectiveness, discouraged qualified organizations from seeking and performing under federal grants, and wasted billions of dollars and countless hours in needlessly complex reporting requirements. Proposing what it calls a [“fundamental rewrite” of the Office of Management and Budget Uniform Guidance](#), the changes would promote equity, remove barriers for smaller organizations, and simplify the federal grantmaking process, particularly at the application stage. The proposed changes include numerous nonprofit-friendly reforms including raising the *de minimis* indirect cost rate from 10% to 15%, prohibiting federal agencies from pressuring organizations to accept lower reimbursements for indirect costs, and creating what amounts to an appeals process when federal agencies fail to follow OMB guidance. Once published in the *Federal Register*, the public will have 60 days to offer comments, likely due in early December. See the [National Council of Nonprofits initial analysis](#).

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### Worth Studying

- [Dollars Delivering Results: Biden-Harris Administration Publishes Proposed Updates to the Uniform Grants Guidance to Improve Impact of Federal Grants and Other Financial Assistance](#), White House News Release, Sept. 22, 2023.
  - [Guidance for Grants and Agreements](#), Pre-publication version, posted Sept. 22, 2023.
  - [Significant Improvements to Federal Grants Rules Proposed](#), National Council of Nonprofits, Sept. 26, 2023.
  - [Government Grants and Contracts](#), National Council of Nonprofits web resources.
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# New Supreme Court Term Opens Today

Today – the first Monday in October – marks the beginning of a new term of the U.S. Supreme Court. Thus far, the Court has agreed to consider [36 cases during its 2023-2024 term](#), and it will continue to add cases on a rolling basis through the beginning of next spring. Thirty of the cases concern civil matters, and six are criminal cases. None as yet directly relates to the charitable nonprofit community as a whole, although some will certainly impact the work being done in specific subsectors (e.g., environment and health care). Others could indirectly touch all individuals and organizations in the country (e.g., employment law, and redistricting cases that can influence the balance of power in Congress). A recurring theme is the Court’s focus on cases [challenging the power of executive branch agencies](#). As the Court decides delicate questions about proper calibration of power – federal vs. state, executive branch vs. legislative – its own accountability is being challenged due to recent [revelations about potential conflicts of interests](#) of certain justices, setting up another power allocation question: legislative branch (where efforts are underway to impose a code of ethics on justices) vs. the Supreme Court (which has not regulated its own behavior).

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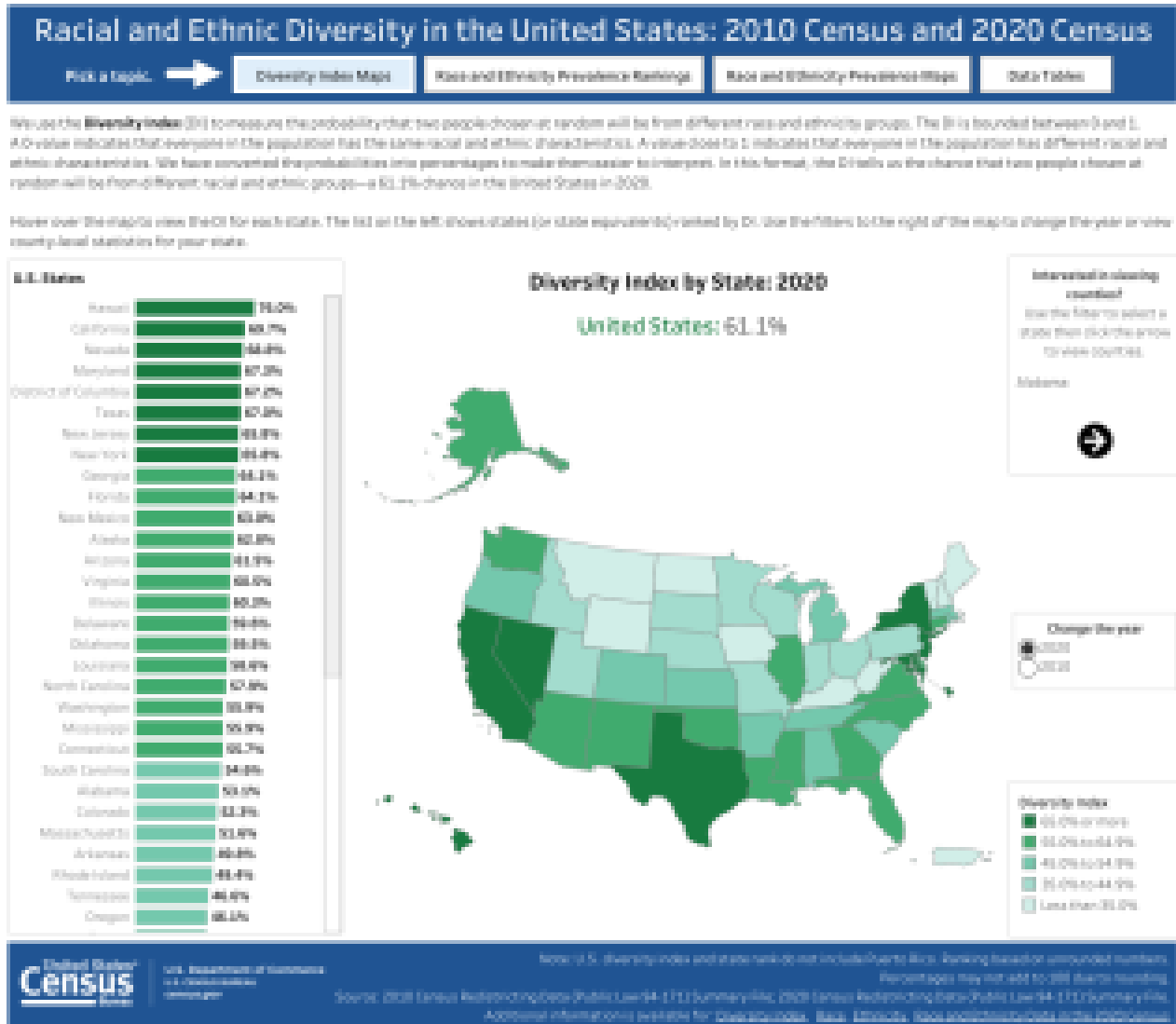
## Worth Reading

- [It’s Open Season on Civil Rights. Philanthropy Must Not Retreat.](#), Stacey Abrams and Julian Castro, *Chronicle of Philanthropy*, Oct. 2, 2023.
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## Federal FastView

- **Counting Nonprofit Employees:** Last week, a coalition of two dozen national nonprofits sent a [letter to President Biden](#) asking him to correct a data imbalance that adversely affects charitable nonprofits. Specifically, the letter seeks inclusion of money in his Fiscal Year 2025 budget request for the Bureau of Labor Statistics to include nonprofit workforce data in the Quarterly Census of Employment and Wages. The letter points out that almost “every sector of the economy – including many that are much smaller than nonprofits – can track its employment totals and wage information from BLS on a quarterly basis,” enabling employers in those sectors “to benchmark their outcomes

against larger trends, while helping policymakers understand challenges and craft responsive policy.” Nonprofit jobs data, however, are only tracked every five years, at best, leaving nonprofit organizations to guess at employment trends or to pay for private data collection and analysis.



**Detailed Data on Race and Ethnicity Groups:** In September, the [U.S. Census Bureau released](#) 2020 Census population counts and sex-by-age statistics for 300 detailed race and ethnic groups, as well as 1,187 detailed American Indian and Alaska Native (AIAN) tribes and villages. Among the findings, the new data set identified the Mexican population (35.9 million) as the largest detailed Hispanic origin group in 2020, followed by Puerto Rican at 5.6 million and Salvadoran at 2.3 million. The vast majority (93.9%) of the 27.9 million respondents in the Census classified as “Some Other Race” were of Hispanic or Latino origin, while the category also included people who responded to the race question by reporting “Multiracial and Multiethnic”

terms, such as “Biracial.” The data are available in the interactive visualization [Detailed Races and Ethnicities in the United States and Puerto Rico: 2020 Census](#).

- **Solutions to Senior Hunger and Isolation:** Older adults’ well-being and health care have improved drastically due to meal-delivery programs, according to a [comprehensive review of 38 studies](#). Positive impacts on well-being and reduced health care costs resulted from Meals on Wheels providing nutritious meals, social connectedness, and safety checks to those they serve, the analysis found. The report focused on eight subject areas, including food security, diet quality, nutritional status, social isolation, loneliness, and falls/home safety, and found that the programs reduced health care utilization, prevented nursing home admissions, and generated substantial health care cost savings.
  - **Supporting Hawai`i Wildfire Victims:** The Internal Revenue Service [provided guidance](#) for employer leave-based donation programs aimed at supporting Hawaii wildfire victims. [Notice 2023-69](#) explains that cash payments that employers make to charitable organizations during 2023 and 2024 providing relief to victims of the wildfires in Hawai`i in exchange for sick, vacation or personal leave which their employees forgo will not be treated as compensation. Similarly, the employees will not be treated as receiving the value of the leave as income and cannot claim a deduction for the leave that they donated to their employer. Employers, however, may deduct these cash payments as a business expense or as a charitable contribution deduction if the employer otherwise meets the requirements of the applicable sections of the Internal Revenue Code.
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## ***Taking Action***

### **Dealing With Overtime**

The U.S. Department of Labor proposal to change the [regulations governing overtime pay for white collar employees](#) is prompting nonprofit employers to reevaluate their salary practices and assignment of job duties. These evaluations can help inform public comments that charitable organizations submit in response to the proposed changes and give employers insights into budgeting and restructuring

their workforces to ensure compliance with federal wage and hour laws. For instance, if the proposed higher minimum salary thresholds go through at some point in 2024, employers will likely need to make adjustments to the pay and work plans for affected employees. These range from raising salaries above the new threshold (estimated to end up somewhere between \$55,000 and \$60,000), reclassify employees as non-exempt and assume the expense of overtime pay, or [more than a dozen other options laid out in this analysis](#).

The Labor Department is asking all employers to review the proposed regulations and submit public comments on key questions like what the rules changes would cost each organization, how many employees would be affected, and what entities are planning to do to comply. The National Council of Nonprofits encourages all charitable nonprofits reviewing the proposed regulations to [conduct a mission-based analysis](#) of the proposed regulations by answering five nonprofit-specific questions.

**ACTION ITEM:** Go to this webpage for background information on the overtime proposed rule, key questions to consider, and tips on submitting effective public comments: [Evaluating the Labor Department's Overtime Proposed Rule](#).

## State and Local

### American Rescue Plan Act Investments in Nonprofits

State and local governments have until December 31, 2024, to obligate their share of the \$350 billion in State and Local Fiscal Recovery Funds enacted as part of the American Rescue Plan Act. Governments continue to evaluate and approve investments.

- Larimer County, **Colorado**, commissioners heard testimony about the impact that its \$125,000 ARPA-funded grant to the nonprofit [Colorado Poverty Law Project](#) had for Larimer County residents, such as providing legal support to 114 households, serving 532 residents through educational programs or legal clinics. It also heard that needs in the area are increasing this year.
- Last week, the Jamestown, **New York**, City Council voted to provide \$1.3 million of its ARPA allocation in [funding for nonprofits](#), approving support for the

Jamestown YMCA, a women's homeless shelter, and the YWCA Jamestown's youth leadership program.

Nonprofits can continue to use these examples to show why ARPA funds can and should be used to partner with governments and advance solutions in communities. For more on nonprofits' eligibility for ARPA dollars and how governments can partner with nonprofits see [Strengthening State and Local Economies in Partnership with Nonprofits](#).

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## Prioritizing Nonprofit Legislation in the States

Several bills have been introduced or are advancing in the states that can impact the work of charitable nonprofits in those states and can serve as examples for other states to consider:

**Employment:** A pending bill in **Wisconsin** would establish a [child care reimbursement account program](#) for qualifying child care expenses for children under the age of 13. It would permit parents, legal guardians, or others to contribute to the account and deduct up to \$10,000 per account per year.

**Giving Incentives:** Pending in the **Michigan** Legislature are two pairs of bills to [promote giving to community foundation endowments](#) and to [nonprofits providing food and housing](#). Both sets of bills would provide a 50% tax credit of up to \$100 for singles and \$200 for couples. A resident estate or trust could claim a credit of up to \$5,000 or 10% of the taxpayer's liability, whichever is less.

**Government Grants and Contracts:** Two bills in **California** that have passed in both chambers and been sent to the Governor for his approval would reform the state's government grants and contracting practices. The first measure would authorize a state agency to [provide advance payment](#) of up to 25% of the total amount of a grant or contract to nonprofits that meet certain minimum requirements. It also calls for prioritizing recipients and projects serving disadvantaged, low-income, and under-resourced communities. The second bill would [expand the California Prompt Payment Act](#) so all nonprofits with a state grant or contract would be entitled to late penalties if the state paid after the due date for payments. The legislation would repeal the current limitation that penalties apply only when state grants or contracts are for less than \$500,000. Governor Newsom

vetoed grants reform bills in 2022 so nonprofit advocacy efforts are focused on achieving a better outcome this year.

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## **Worth Quoting**

*On nonprofit workforce shortages*

- “If they’re short-staffed and a restaurant closes early or isn’t open on Tuesdays, that’s an inconvenience ... whereas if a homeless shelter has reduced hours or has to scale back on facilities, that’s about basic needs. That’s a threat to a vision of Minnesota being a place where everyone can thrive.”

— Kari Aanestad, Associate Director, **Minnesota Council of Nonprofits**, quoted in [Almost all Minnesota nonprofits need workers, forcing some organizations to scale back services](#), Kelly Smith, *Star Tribune*, Sept. 19, 2023.

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## **Worth Watching**

[Study: Nonprofits struggling to fill job vacancies across the country](#), Maya Rodriquez, *Scripps News*, Sept. 28, 2023, featuring the National Council of Nonprofits report, [2023 Nonprofit Workforce Survey Results](#), and quotes from NCN’s David L. Thompson.

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## **Numbers in the News**

### **10.5 billion**

The number of hours the public spends each year completing government paper work including taxes, Medicare applications, and federal student loan documents.

**Source:** [Fact Sheet: Building Digital Experiences for the American People](#), The White House, Sept. 22, 2023.

## **Did You Know?**

- [Borrowers can receive a monthly discount](#) for setting up auto pay for federal student loan payments, which resume this month.
- [Ready.gov](#) has resources on preparing for natural disasters in multiple languages, as well as information on cybersecurity.

## October is

- [Cybersecurity Awareness Month](#)
- [Hispanic Heritage Month](#) (Sept. 15 – Oct. 15)
- [LGBTQ+ History Month](#)
- [National Arts and Humanities Month](#)
- [National Book Month](#)

## Nonprofit Events

- Oct. 2, [Annual Convention & Expo](#), Providers' Council
- Oct. 5, [Annual Summit](#), Forefront (Illinois)
- Oct. 6, [Maryland Nonprofits Annual Conference](#), Maryland Nonprofits
- Oct. 19, [MNN Annual Conference](#), Massachusetts Nonprofit Network

## Advocacy in Action

### Doing Things for More Than One Reason

Everyone knows the adage, “don’t put all your eggs in one basket.” In the nonprofit advocacy world, we prefer the reverse corollary of “don’t do something for just one reason.” As in, capacity is limited, there are only so many things you can do to advance your mission; so make the most of every action to enhance your chances of success.

The real-world example of this advocacy adage occurred in recent weeks when a coalition of national nonprofits sent [a letter to congressional leaders](#) calling on them

to do everything in their power to keep the federal government open. If the only purpose was to influence the near-term outcome of macro-economic policies and intra-party nihilism, the letter probably didn't have a direct impact on the 11<sup>th</sup> hour decision to avert a federal government shutdown, for now. But that wasn't the only purpose of the letter.

While the short letter focused *primarily* on the dangerous consequences of a government shutdown, it accomplished multiple other objectives.

[Read the full article](#)

## **Stay in the Loop**

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