

VOLUNTEER SERVICE IN THE NONPROFIT SECTOR: MEETING THE CHALLENGE

The need for a stronger voluntary sector¹ predates the Reagan Administration's budget cuts and fiscal policy. In 1975, the Commission on Private Philanthropy and Public Needs (Commission) studied and chronicled the growing gap between the need for social services provided by the voluntary sector and the resources available to meet that need.² In 1982, the House of Representatives issued a report which noted that volunteer organizations such as the United Way and American Red Cross were experiencing difficulty attracting volunteers.³ This note first will examine several factors contributing to the gap. Second, it will analyze various incentives to enhance volunteer service contributions. Finally, this note will consider specific tax proposals designed to narrow the gap.

CONTRIBUTING FACTORS

Costs

One factor contributing to the gap between need and resources is the extraordinary rise in costs for most nonprofit organizations.⁴ Nonprofit organizations are susceptible to greater than average costs because they provide primarily labor-intensive services.⁵ For example, eighty-five percent of the budget in higher education is expended on salaries and wages.⁶ The cost of labor has risen at a faster rate than other costs in the last several decades,⁷ causing nonprofit organizations' overall costs to rise proportionally higher than non-service organizations' costs. Moreover, because nonprofit organizations provide services rather than manufactured products, they have been unable to

1. As referred to in this article, the "voluntary sector" includes all nonprofit activities devoted to social concerns out of a recognition of need and without concern for direct or immediate monetary reward. See S. ELLIS & K. NOYES, *BY THE PEOPLE: A HISTORY OF AMERICANS AS VOLUNTEERS* (1978). This includes volunteer activities in such diverse areas as labor, education, child care, religion, civil rights, conservation, local government, foreign aid, self-help and a myriad of social welfare services. See Appendix A, Table A-1 indicating the relative size and expenditures of various types of charitable nonprofit organizations in 1977.
2. REPORT OF THE COMMISSION ON PRIVATE PHILANTHROPY AND PUBLIC NEEDS, *GIVING IN AMERICA: TOWARD A STRONGER VOLUNTARY SECTOR* (1975) [hereinafter cited as COMMISSION REPORT].
3. STRONGER SUPPORT FOR COORDINATED FEDERAL POLICY ON VOLUNTARISM NEEDED IN ACTION, H.R. Rep. No. 781, 97th Cong., 2d Sess. 6 (1982) [hereinafter cited as HOUSE REPORT].
4. COMMISSION REPORT, *supra* note 2, at 83.
5. *Id.*
6. *Id.*
7. *Id.* The cost of labor in service industries has risen at a faster rate than the cost of labor in other industries. See U.S. DEPT' OF COMMERCE, *BUSINESS STATISTICS: 1982*, 137 (1983).

benefit from new labor-saving technology.⁸ Labor costs for the non-profit sector have also probably risen higher than for other sectors of the economy because nonprofit organizations traditionally paid their employees lower salaries than business or government.⁹ Because of unionization and increases in minimum wage rates,¹⁰ the nonprofit sector has been forced to become more competitive in its salaries and wages to remain competitive in its services.

Another reason that nonprofit organizations' costs have increased so dramatically is that the more successfully a nonprofit voluntary organization reaches the people it serves, the greater its operating deficit will be. Economies of scale rarely apply to the nonprofit organization's services because most services which nonprofit organizations provide do not pay for themselves.¹¹ For example, tuition generally covers only about two thirds of the costs of education,¹² and museum admissions cover only about one third of operating expenses.¹³ Thus, nonprofit organizations are subject to a diseconomy of scale, with the amount of unreimbursed expenses increasing in direct proportion to the number of people served.

Private Revenues

Another factor contributing to the gap between need and resources in voluntary service is the "sluggishness of private giving."¹⁴ Total private financial giving increased the purchasing power of non-profit organizations by only twenty-eight percent between 1960 and 1972.¹⁵ By comparison, the gross national product (GNP) increased by sixty-two percent in real purchasing power during the same period.¹⁶ In other words, in 1960 the relative purchasing power of charitable contributions was two percent of the GNP. By 1972, the purchasing power of charitable contributions was reduced to less than one and a half percent of the GNP, as absolute giving decreased in constant dollars.¹⁷

8. COMMISSION REPORT, *supra* note 2, at 83.

9. *Id.* at 84.

10. *Id.*

11. *Id.* at 85.

12. *Id.* at 86.

13. *Id.*

14. *Id.* at 81.

15. The Commission reported:

The standard way of looking at the trends in philanthropic funds from year to year has been to deflate money figures by the same proportions that the consumer price index or the gross national product is discounted in order to abstract out price rises that do not reflect "real" economic changes. Yet such mathematical adjustments fail to reckon with the fact that costs in nonprofit activity has risen significantly faster than in the economy as a whole. In order to take account of these steeper price rises, Nelson deflates private giving according to different price patterns in different nonprofit areas.

Id. at 82.

16. *Id.* at 83.

17. *Id.* at 125. See also Appendix C, Table C-2, for projected decreases in private giving through 1984.

Government Revenues

Another contributing factor to the gap between need and resources is erratic government funding.¹⁸ This has become a critical factor today with the Reagan Administration's radical restructuring of the Federal Government's former alliance with the non-profit sector. The Omnibus Reconciliation Act of 1981¹⁹ included budget reductions of billions of dollars which have directly and drastically impacted on the voluntary sector.²⁰ The severely debilitating effects²¹ of these reductions have been compounded by spending cuts in education and areas of social and human welfare programs.²²

Impact of Government Revenue Reductions on Shortage of Volunteers

A shortage of volunteers has contributed to the ever-widening gap between needs and resources. Though the Commission seemed encouraged in 1975 by an increase in the amount of volunteer time contributed²³ as compared with the decreases in monetary contributions, most nonprofit organizations have not experienced an abundance of volunteer labor.²⁴ As noted earlier, organizations such as the United Way and American Red Cross are experiencing difficulty in recruiting

18. *Id.* at 81.

19. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (codified at scattered sections and titles of U.S.C.).

20. The budget reductions directly affecting voluntary institutions for fiscal years 1981-84 total \$25.5 billion: social welfare (\$12.5 billion); education (\$6.5 billion); health finances (\$4.5 billion); health services (\$1.3 billion); income assistance (\$500 million); international (\$200 million); arts (\$300 million); and environment (\$100 million). HOUSE REPORT, *supra* note 3, at 12. See also Appendix B, Table B-1.

21. HOUSE REPORT, *supra* note 3, at 3-7.

22. The House Report noted:

Easily 50 percent of direct reductions to voluntary organizations is in social welfare where earlier discussion showed least private sector and individual voluntarism. The direct reductions of the budget on voluntary organizations in areas of great interest to philanthropic and support organizations reveal the same. But even greater indirect effects come through cuts in programs like Aid to Families with Dependent Children (AFDC), Food Stamps, and nutrition/health maintenance programs. Here 60 percent of such program reductions are in the area of social welfare with another 25 percent in education.

Id. at 12.

23. The 1974 Census Bureau survey commissioned by ACTION showed 24% of Americans over the age of thirteen did some form of volunteer work. The Commission compared this with a Labor Department survey taken in 1965 which showed less than 20% of Americans were volunteering their time in nonprofit activities. Sixty-three percent surveyed by the Census Bureau claimed to volunteer more than 25 hours per year as compared to 54% who claimed to volunteer the same amount of time in the 1965 Labor Department survey. *Id.* at 73.

A 1981 Gallup Poll for Independent Sector, using a broader definition of volunteer, showed the following:

[A]bout 52 percent of American adults and about the same proportion of teenagers volunteered on a regular basis for two or more hours a week; 10 percent of the adult population averaged seven or more hours per week. Fifty-two percent, however, included those who volunteered informally or alone. (Thirty-one percent of those volunteers actively support both community and social service delivery programs, in some organized fashion.) However, only 5 percent of adult volunteers actively engaged in organized social welfare voluntarism affecting the lives of the most needy.

Id. at 4.

24. *Id.* at 6.

volunteers.²⁵ The reasons for this difficulty are rooted in recent societal changes: more women have been entering the paid workforce,²⁶ volunteers' travel and other expenses have been increasing,²⁷ and American lifestyles have become more transitory, thereby reducing community ties.²⁸ General economic pressures have also offset "the availability or desire of many people to volunteer."²⁹ All of these factors have combined to dislocate the traditional volunteer community, requiring new means of attracting people to volunteer service.

The general shortage of volunteers in the nonprofit sector, however, is only a part of the problem. Not only are more volunteers needed generally, but volunteers are particularly needed in areas of service to the poor, minorities, and the disadvantaged.³⁰ This need is based in part on the type of volunteer service most individuals contribute:

The largest category of all volunteers is individuals engaged in informal activities done without organizational support. These are services that people do for themselves, their families, or immediate neighbors. Less than 5 percent volunteered in social welfare service activity (even broadly defined). In other words, the kind of volunteer activity that most people do is a far cry from the day to day service that is bought with Federal funds. The distinction is similar to baking cookies for boy scouts or church activities, and regularly attending the needs of the troubled, afflicted, homeless, and drug abused or training the unskilled.³¹

Thus, there remains an overwhelming, unfulfilled need for volunteers in these areas of service. The magnitude of federal cutbacks in social welfare services has further exacerbated the need.³²

The voluntary sector serves a role independent of and complimen-

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. As the House Report noted:

Except for the health category volunteers, social and welfare category activities (such as orphanages, the aged, youth juvenile programs, child abuse, poverty agencies, and justice organizations) were clustered at the bottom of priorities for volunteers. What this means is without Federal support for voluntarism in those areas, the needs of the poor, minorities, and disadvantaged will not be as well served as other groups by the voluntary sector.

ACTION officials felt that extraordinary individuals like Chicago's Marva Collins, Kimi Gray of Washington, D.C., and Father Ritter of New York already exist in local communities. But the Agency has no strategy to address, or sensitivity to, the needs of the thousands of local communities and projects not fortunate enough to have such extraordinary indigenous leadership. Even the Agency's ardent defenders conceded that a strategy for providing volunteers and leadership must be considered when local skills are absent.

Id. at 6-7 (footnote omitted).

31. *Id.* at 5.

32. See L. SALAMON & A. ABRAMSON, *The Non-Profit Sector*, in THE REAGAN EXPERIMENT 234 (J. Palmer & I. Sawhill eds. 1982) [hereinafter cited as REAGAN EXPERIMENT].

Even if the costs to the nonprofit sector were not rising at a disproportionate rate (see *supra* notes 4-12 and accompanying text) and nonprofit organizations only attempted to maintain their existing level of services, the federal budget cuts create a considerable gap

tary to the functions of government and business in providing public services.³³ Private financial and service resources are recognized as providing both stability and flexibility to service programs.³⁴ Voluntarism can enhance individual and corporate responsibility, spur community development, and revitalize the work ethic.³⁵

INCENTIVES FOR VOLUNTARISM

Ironically, voluntarism has been used to justify the cutbacks in federal spending on human and social services.³⁶ Given the growing gap between the need for social services and the resources available to meet that need, more incentives should be created to enhance the role of volunteers in nonprofit organizations. The following sections of this note will explore some means of creating these incentives.

While working toward enhancing the role of volunteers, it is important to recall that voluntarism has never completely satisfied the needs of the nonprofit sector.³⁷ The Federal Government has always been an indispensable part of the support base for nonprofit activities. As the Commission concluded, ". . . government support for much nonprofit activity is an indisputable fact of life which must be lived with and reckoned with."³⁸ In providing incentives for volunteers, the ultimate goal should be to promote cooperation and partnership between the nonprofit, business, and governmental sectors.³⁹ The objective should

between resources and need. See Appendix B, Tables B-1 and B-2 which illustrate the significant percentages of nonprofit expenditure represented by the cuts.

The effects of the budget cuts are further exacerbated by the Economic Recovery Tax Act of 1981, I.R.C. §§ 1, 63, 170(i) (West Supp. 1983), including tax rate indexing scheduled to begin in 1985, tax rate cuts, and charitable deductions for non-itemizers. For the projected impact of these provisions on individual charitable contributions, see Clotfelter and Salamon, *The Impact of the 1981 Tax Act on Charitable Giving*, 35 NAT. TAX J. 171 (1982) and Appendix C, Tables C-1 and C-2. For a critique of Clotfelter and Salamon, see Butler, *Voluntarism and the Reagan Economic Program*, reprinted in *Voluntarism in America: Hearings Before the Aging, Family and Human Services Subcomm. of the Senate Comm. on Labor and Human Resources*, 97th Cong., 2d Sess. 85-93 (1982) [hereinafter cited as *Voluntarism Hearings*].

33. See, e.g., REPORT AND RECOMMENDATIONS OF THE COMMISSION ON FOUNDATIONS AND PRIVATE PHILANTHROPY, FOUNDATIONS, PRIVATE GIVING AND PUBLIC POLICY 31 (1970); E. S. SAVAS, *PRIVATIZING THE PUBLIC SECTOR* (1982); HOUSE REPORT, *supra* note 3, at 4; *Hearings Before the House Committee on the Budget, Task Force on Entitlements, Uncontrollables and Indexing*, 97th Cong., 1st Sess. (1982) (statement of Richard W. Lyman, president, The Rockefeller Foundation).
34. See, e.g., *Voluntarism Hearings*, *supra* note 32, at 1, 4 (opening statement of Senator Jeremiah Denton, R-Ala.) and 101, 103 (testimony of Dr. Jack A. Meyer, Resident Fellow in Economics & Director, Center for Health Policy Research, American Enterprise Institute for Public Policy Research).
35. There are, however, some groups which oppose any increased emphasis on volunteer labor, including some women, labor, and professional organizations. See S. ELLIS & K. NOYES, *supra* note 1, at 259-64.
36. See, e.g., HOUSE REPORT, *supra* note 3, at 1; REAGAN EXPERIMENT, *supra* note 32, at 219-20.
37. See HOUSE REPORT, *supra* note 3, at 11.
38. COMMISSION REPORT, *supra* note 2, at 96.
39. Historically, the divisions between public and private resources were less sharply drawn than they are today. COMMISSION REPORT, *supra* note 2, at 96. Even recently, the government and nonprofit sectors have maintained an extensive and complex partnership arrangement which L. Salamon and A. Abramson refer to as a "non-profit federalism."

be to broaden the base of philanthropic support. The Federal Government can help broaden the support base by providing greater incentives to groups and individuals to volunteer their services to nonprofit organizations.

Presidential Initiatives

To promote voluntarism the Reagan Administration has primarily relied on appeals to civic consciousness and altruism. The President has proclaimed May 1, 1983 through April 30, 1984, the National Year of Voluntarism.⁴⁰ He has commended various groups and organizations for their contributions and achievements in voluntary service and has called upon them to continue and to improve this service.⁴¹

In October, 1981, President Reagan appointed the President's Task Force on Private Sector Initiatives,⁴² which terminated as scheduled on December 31, 1982.⁴³ The Task Force issued a report for policymakers⁴⁴ in which it recognized voluntarism as "a legitimate area of public policy discussion," and urged that "government can both remove impediments and create incentives for people to get involved."⁴⁵

Far from displacing nonprofit organizations, the federal government has come to rely on them extensively to carry out the functions the public has called on it to perform. To be sure, the resulting relationships are not without their tensions and strains. Involvement in government programs subjects nonprofit organizations to crosscutting federal regulations and fiscal controls. It also requires greater management control and probably contributes to bureaucratization. However, what little empirical research has been done on the issue does not support the view that involvement with government grossly distorts the agencies' goals or destroys their independence. One study of 155 agencies affiliated with the Greater New York Fund/United Way, for example, recorded little change in the agencies' core programs as a result of the acceptance of government funds. . . .

In short, the tensions that exist in this set of relationships occur within a framework that also has much to recommend it. These relationships blend public purposes with private capabilities and put publicly generated resources at the disposal of private voluntary institutions to address democratically defined community needs. Thus, they represent one of the more innovative and important American contributions to the practice of government.

REAGAN EXPERIMENT, *supra* note 32, at 234.

40. Proclamation No. 5057, 48 Fed. Reg. 20,033 (1983).

41. *See, e.g.*, President's Remarks on Signing the Annual Report on the State of Small Business to the Congress, 19 WEEKLY COMP. PRES. DOC. 416 (Mar. 18, 1983); President's Remarks Announcing Government Assistance in National Health Fair Partnership Program, 18 WEEKLY COMP. PRES. DOC. 1003 (Aug. 5, 1982); President's Remarks at the Annual Meeting of the National Chamber of Commerce, 18 WEEKLY COMP. PRES. DOC. 528, 532-3 (April 26, 1982); President's Announcement of Volunteer Action Awards Program, 17 WEEKLY COMP. PRES. DOC. 1371 (Dec. 12, 1981).

42. Exec. Order No. 12329, 3 C.F.R. §§ 83, 187 (1982); 15 U.S.C.A. § 3113 (1982). The Task Force was designed to "serve as a focal point for private sector action addressing public problems" and advise the President and executive agency heads regarding:

(1) methods of developing, supporting and promoting private sector leadership and responsibility for meeting public needs, and

(2) recommendations for appropriate action by the President to foster greater public-private partnerships and to decrease dependence on government.

Id. § 2.

43. *Id.* § 4(b).

44. THE PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES, VOLUNTEERS: A VALUABLE RESOURCE (Dec. 1982) [hereinafter cited as TASK FORCE REPORT].

45. *Id.* at 2.

Such appeals to civic consciousness may help focus public attention on the needs exacerbated by the President's fiscal policy.⁴⁶ Insofar as such rhetoric seeks to abrogate governmental responsibility, however, it undermines rather than enhances the potential for acquiring the resources needed to meet the rising demand for volunteer labor. Such exhortations fail to distinguish adequately between eliminating government support and improving that support through new formulations of old cooperations.

Legislative Initiatives

The internal revenue system has been a traditional means of shaping social policy.⁴⁷ Its use in creating news opportunities for volunteer services would minimize administrative burdens on the government by using an existing structure with an established agency for its administration.

Tax incentives for private giving have been shown to be both effective and efficient inducements to giving,⁴⁸ that is, the gain to charitable organizations is greater than the government's cost in creating these incentives. According to Martin Feldstein, then a Harvard professor of economics and presently Chairman of the President's Council of Economic Advisors, deductions for financial contributions to charitable organizations by individuals provide an effective device for increasing support for the nonprofit sector.

It is effective in the sense that it induces taxpayers to give much more than they would give if deprived of the incentive of a deduction. It is efficient in the sense that the charitable organizations to which contributions are made gain more than the U.S. Treasury loses.

In 1968, for example, eliminating the charitable deduction would have produced \$3.3 billion more in taxes for the Treasury, but charitable organizations would have lost \$3.9 billion. Thus, if the Internal Revenue Code did not provide for such a deduction, charitable organizations would have lost \$1.18 for every extra dollar the Treasury would have collected.⁴⁹

Though tax savings are not the sole motive for private giving, this evi-

46. See discussion *supra* notes 23-32 and accompanying text.

47. The Internal Revenue Code (IRC) has been used almost from its inception to encourage private contributions of charitable gifts. Congress established the deduction for charitable contributions only four years after the inception of the individual income tax, recognizing the significant role the tax system can and does play in shaping social policy and human behavior. See War Revenue Act of 1917, Pub. L. No. 65-50, § 1201(2), 40 Stat. 300,330 (1917). See also E. FISCH, D. FREED & E. SCHACHTER, *CHARITIES AND CHARITABLE FOUNDATIONS* § 816 (1974).

48. S. WEITHORN, *Prospective Impact of Noncharitable Provisions of 1976 Tax Reform Act on Incentives for Charitable Giving*, 149, 151 in NOTRE DAME INSTITUTE ON CHARITABLE GIVING, FOUNDATIONS, AND TRUST, 1976 PROCEEDINGS (1977). These conclusions are based upon a study by M. Feldstein, *On the Effects of the Income Tax Treatment of Charitable Contributions* (1973). (Discussion Paper No. 337, Harvard Institute of Economic Research).

49. *Id.*

dence indicates that they do provide a significant incentive for contributions.

Using tax incentives also gives private charitable organizations maximum flexibility in developing programs that respond to local needs. The charitable organizations would continue to direct their own programs and services. Individuals who choose to become volunteers or corporations which choose to contribute employee time⁵⁰ would be free to select the type of service and organization to which they contribute. Because of these advantages, the present tax system's relationship to voluntarism should be reconsidered. Such a reconsideration might provide some insight into the possibilities of creating new opportunities for volunteer labor through tax incentives.

Currently, the federal tax system provides few incentives for the donation of volunteer labor. The income tax provisions which deal with deductions for charitable contributions are geared almost exclusively to donations of cash and other property.⁵¹ Only Section 1.170A-1(g) of the Treasury Regulations specifically addresses deductions related to volunteer labor. It provides:

No deduction is allowable under section 170 for a contribution of services. However, unreimbursed expenditures made incident to the rendition of services to an organization contributions to which are deductible may constitute a deductible contribution. For example, the cost of a uniform without general utility which is required to be worn in performing donated services is deductible. Similarly, out-of-pocket transportation expenses necessarily incurred in performing donated services are deductible. Reasonable expenditures for meals and lodging necessarily incurred while away from home in the course of performing donated services also are deductible. For the purposes of this paragraph, the phrase "while away from home" has the same meaning as that phrase is used for purposes of section 162 and the regulations thereunder.⁵²

Though this provision enables a volunteer to deduct some of the costs of volunteering, alone it is inadequate to provide the incentives which the voluntary sector so desperately needs.

TAX PROPOSALS TO CLOSE THE GAP

Current Legislative Proposals

Several bills have been introduced into Congress⁵³ which would

50. See MO. ANN. STAT. §§ 32.100 to 32.125 (West Supp. 1984) for an example of state legislation providing tax credits to corporations which provide neighborhood assistance, job training or education for community development.
51. I.R.C. § 170(a) (1976 & Supp. II 1978) (permits a taxpayer to deduct charitable contributions of cash or property of which payment is made during the taxable year).
52. Treas. Reg. § 1.170A-1(g), 3 FED. TAXES (P-H) ¶ 16,015 (1984). For interpretations of this provision see Rev. Rul. 240, 1958-1 C.B. 141, clarified by Rev. Rul. 135, 1971-1 C.B. 95; Rev. Rul. 73-597, 1973-2 C.B. 69.
53. The following bills have been introduced into Congress and assigned to committee. No further action has been taken before publication of this note. H.R. 2698, 98th Cong., 1st Sess.,

provide some incentive for increasing volunteer service contributions.⁵⁴ The following discussion will focus on H.R. 2698, introduced on April 21, 1983, which provides for tax credits to individuals who volunteer services to qualified public service organizations.⁵⁵

House bill 2698 limits the amount which may be credited for volunteer services to \$750 annually.⁵⁶ The contribution is computed by multiplying the number of hours of service by the greater of \$2.90 per hour or the going minimum wage.⁵⁷ The credit is nonrefundable⁵⁸ and is only available to individuals who contribute at least fifty hours of verified volunteer service per year.⁵⁹ The service must also be provided to a qualified public service organization. The bill defines "qualified public service" as (1) tax-exempt organizations under Section 501(c)(3) or (4), or organizations owned or operated by a state agency; (2) organizations providing public safety services; and (3) nonpartisan organizations which seek to promote human welfare by electoral or legislative reforms.⁶⁰ A special exception is provided for non-exempt organizations which contribute significantly to the promotion of individual human welfare and whose net earnings do not benefit private shareholders or individuals.⁶¹ If enacted, the proposed tax credit would be available only during the 1984 taxable year.⁶²

Proposed Elements of Legislation

Any tax incentive must respond to four decisions a taxpayer will make before volunteering. The taxpayer will decide first whether to volunteer any personal services; second, how much time to volunteer; third, what type of services he or she is willing to contribute, and finally to whom to contribute these services.

129 CONG. REC. H2313 (daily ed. Apr. 21, 1983) (tax credit for qualified volunteer time); H.R. 272, 98th Cong., 1st Sess., 129 CONG. REC. H86 (daily ed. Jan. 6, 1983) (deduction for dependent care costs incurred while volunteering; if enacted, this would effectively overrule Rev. Rul. 73-597, 1973-2 C.B. 69 which disallows such a deduction); S.2284, 98th Cong., 2d Sess., 130 CONG. REC. S1225 (daily ed. Feb. 9, 1984) (raises standard mileage deduction for charitable contribution to equal standard mileage deduction for business expenses).

54. Some might resist any form of financial incentive for volunteer services as antithetical to the nature of voluntarism which, by definition, is not based upon concern for direct or immediate monetary rewards. See ELLIS & NOYES, *supra* note 1. Yet, there is no principled reason why deductions for charitable contributions of labor would violate the spirit of giving any more than deductions for the charitable contributions of cash or property.

Another argument against tax incentives for volunteers might be that such incentives only subsidize what would otherwise be "free" labor. If, however, the incentives work as proposed, they would generate a pool of volunteers which had not previously existed. Thus, even if tax incentives are considered government subsidies, they would not subsidize the existing volunteer labor force so much as supplement it with new volunteers.

55. H.R. 2698, *supra* note 53, § (a).

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.* § (c).

The Decision to Contribute Volunteer Services

To encourage the broadest base of potential volunteers, the tax incentive must be simple to use. Like the new deduction for charitable contributions made by non-itemizers,⁶³ the tax allowance for contributions of services should be available on the short-form tax returns.⁶⁴ Since the rate of volunteering generally declines among individuals with a lower household income and with a lower level of education,⁶⁵ a non-itemized, simple-to-use allowance would tap into a significant potential pool of new volunteers.

The legislation should also provide an income-constant form of tax allowance. Tax credits provide a dollar for dollar tax savings; deductions provide a savings proportional to the taxable rate of income. Thus, a taxpayer in a higher income bracket benefits more from a tax deduction than a taxpayer in a lower bracket, whereas a tax credit provide a dollar-for-dollar benefit to all taxpayers regardless of their income bracket. To be income-constant, however, the credit should also be refundable,⁶⁶ so that those who have no tax liability will receive the full benefit of the credit. This is significant in creating incentives for volunteers. A 1981 Gallup Poll indicated that those with annual household incomes below \$15,000 tend to volunteer less than those with incomes above that level.⁶⁷ A refundable tax credit would provide the greatest incentive for this group of volunteers.

How Much Time to Contribute

To encourage greater amounts of giving among those who volunteer services, tax incentive legislation should condition the availability of the credit upon a minimum number of service hours contributed per year. An estimated fifty-two percent of all Americans serve in some type of volunteer activity.⁶⁸ Thirty-one percent of Americans volunteer two or more hours each week and ten percent volunteer four or more hours each week.⁶⁹ If the available credit were contingent upon a contribution of 100 or more hours of service for each year, more sustained time commitments would be encouraged among volunteers while remaining within realistic expectations of people's willingness to contribute.

63. I.R.C. § 170(i) (West Supp. 1983). See S. 337, 98th Cong., 1st Sess., 129 CONG. REC. S794 (daily ed. Feb. 1, 1983) (provides for a permanent charitable deduction for nonitemizers); Clotfelter and Salamon, *supra* note 32, at 178-80.

64. I.R.S. Forms 1040EZ and 1040A.

65. TASK FORCE REPORT, *supra* note 44, at 9.

66. A tax credit may provide a refund when the taxpayer owes no tax or less tax than the amount of the credit. See, e.g., I.R.C. §§ 31, 43 (West Supp. 1983) (refunds of tax credit from withholdings on wages and earned income credit).

67. *Id.*

68. CONGRESSIONAL RESEARCH SEARCH, VOLUNTEER SERVICE: CHARACTERISTICS AND PROPOSALS 3 (C.R.S. Rep. No. 83-5 EPW) (1983) (prepared by Evelyn H. Tager).

69. *Id.*

Type of Service to Contribute

Volunteers with specialized or technical skills are in particular demand.⁷⁰ To encourage greater individual and corporate contributions of these types of services, the value of the contribution should be based in part on the level of skill required for the service rendered. For example, an organization receiving volunteer services could issue a receipt to the volunteer for the dollar amount of the services contributed. This amount could be a percentage of the value of the services provided, as determined by tables of average earnings for various occupational groups. Such tables could be made available through the Bureau of Labor Statistics of the Department of Labor.

To Whom to Contribute

To ease administrative burden and reduce the potential for litigation, yet still narrow the gap which the non-profit sector is experiencing between resources and need, tax incentive legislation should use existing qualifications in determining organizations to which a volunteer may contribute services and receive a tax credit. Organizations which are exempt from taxation under sections 503(c)(3) and (4)⁷¹ and which meet the qualifications of sections 170(c)(1) and (2)⁷² of the Internal

70. HOUSE REPORT, *supra* note 3, at 6.

71. I.R.C. § 501(c)(3) (West Supp. 1983) exempts the following organizations from taxation:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

I.R.C. § 501(c)(4) (1976 & Supp. II 1978) exempts:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

72. Under I.R.C. § 170(c)(1) and (2) (1976 & Supp. II 1978) contributions to the following recipients may be deducted:

(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) which is not disqualified for tax exemption under section 501(c)(3) by

Revenue Code should define qualified organizations since they already serve primarily social welfare purposes in the nonprofit sector.

To be effective, tax incentive legislation would have to be well publicized and explained. The qualified nonprofit organizations should publicize the tax benefits of volunteering, as should the President, other public officials, and the IRS. A "sunset" provision should also be written into the legislation so that its effectiveness might be assessed and adjustments made accordingly.

Though H.R. 2698 squarely addresses the problem of volunteer incentives, it fails to offer incentives that truly respond to the needs of the nonprofit sector. It provides a tax credit, but that credit is not refundable. Although it requires a minimum number of volunteer hours each year, its minimum requirement is one most volunteers already meet.⁷³ Moreover, its valuation of services does not distinguish between types of services volunteered, and it sets the normal valuation at the lowest end of the pay scale rather than at a level geared toward promoting voluntarism.⁷⁴ Though the qualified organizations are involved in human welfare concerns, the bill unnecessarily complicates these qualifications.⁷⁵ Finally, the time for which the credit would be allowed is too short to enable a valid assessment of its effectiveness. Indeed, by affecting only the current taxable year, the legislation has almost no opportunity to provide an incentive for increasing contributions of volunteer services since the time to publicize the benefits or urge tax planning based upon this new credit would be too limited to be effective. However, with revision, this type of legislation could be instrumental in meeting some of the critical needs of the nonprofit sector through effective partnership with the Federal Government.

CONCLUSION

The greatest obstacle to creating the necessary incentives for volunteer services is a failure by lawmakers to recognize the tremendous needs of the nonprofit sector generated by the nonprofit sector's increasing costs and decreasing revenues.⁷⁶ This obstacle is compounded by an ever greater demand for services to alleviate human suffering. Another obstacle in the path of creating incentives for volunteerism is bureaucratic inertia. Any tax proposal is objected to as adding more

reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

73. See discussion *supra* notes 68-69 and accompanying text.

74. See discussion *supra* note 70 and accompanying text.

75. See discussion *supra* notes 71-72 and accompanying text.

76. See discussion *supra* notes 4-22 and accompanying text.

wrinkles to an already complex tax system.⁷⁷ The investment of time and effort and the minimal loss of federal revenue, however, could be returned to the nation's benefit, through the nonprofit sector many times over with the proper commitment. Indeed, the President's own Task Force asserted that, ". . . the dollars spent to support volunteering are returned many times over. . . ."⁷⁸ It is time to put these words to action and make the necessary social investment in volunteer services. Legislation providing a refundable tax credit for contributions of volunteer services valued at a percentage of its fair market value could significantly enhance the opportunities for volunteer services, thereby reducing the gap between need and resources, and restoring the economic and social role of the volunteer in our society.

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77. Lawmakers are presently faced with a hue and cry over the complexity and equity of the current tax structure. See, e.g., K. Thomas & G. Dorries, *AICPA Calls for National Commission on Tax Simplification*, 13 TAX ADVISOR 686 (1982); M. Hatfield, *Tax Reform: It's Time to Fulfill the Promise*, 22 TAX NOTES 407 (1984).

78. TASK FORCE REPORT, *supra* note 44, at 7.

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APPENDIX A

Table A-1

THE CHARITABLE NONPROFIT SECTOR IN THE U.S., 1977

<i>Type of Organization</i>	<i>Organizations</i>		<i>Expenditures (in \$ billions)</i>	<i>Paid Employees Number</i>
	<i>Number</i>	<i>Percentage of Total</i>		
Social services	40,983	38	8.3	676,473
Legal aid services	1,101	1	0.3	12,440
Civic, social, and fraternal organizations	34,121	32	3.6	255,924
Education and research	11,074	10	15.5	980,116
Health	12,307	12	44.0	2,431,015
Arts and culture	3,480	3	1.1	59,761
Other	3,725	4	1.1	44,231
Total	106,791	100	73.8	4,459,960

SOURCE: Adapted from U.S. Census, *1977 Census of Service Industries*, SC 77-A-53 (1981), at 3, reprinted in L. SALAMON & A. ABRAMSON, *The Non-Profit Sector*, reprinted in the REAGAN EXPERIMENT, *supra* note 32, at 222 (1982).

APPENDIX B

Table B-1

REDUCTIONS IN FEDERAL OUTLAYS IN COMPARISON WITH NONPROFIT EXPENDITURES IN
FIELDS OF INTEREST TO NONPROFIT ORGANIZATIONS IN FY 1982 AND FY 1983

(In 1981 \$ billions)

Field	FY 1982		FY 1983		
	Nonprofit Expenditures 1981	Budget Cuts as Percentage of Nonprofit FY 1982 Expenditures	Budget Cuts as Percentage of Nonprofit FY 1983 Expenditures	Budget Cuts as Percentage of Nonprofit FY 1983 Expenditures	
Social welfare and community development	18.5	-5.1	28	-11.2	61
Education and research	23.5	-2.3	10	- 6.7	29
Health	76.3	-2.2	3	- 5.7	7
Arts and culture	1.7	—	—	- 0.1	6
Total	120.0	-9.6	8	-23.7	20

SOURCE: Nonprofit expenditure data extrapolated from 1977 *Census of Service Industries*. Reprinted in REAGAN EXPERIMENT, *supra* note 32, at 229.

Table B-2

FEDERAL GOVERNMENT SUPPORT AS A SHARE OF TOTAL NONPROFIT
REVENUES, EXCLUDING RELIGION, 1981

(In \$ billions)

Type of Organization	Federal Government Support	Total Expenditures	Federal Government as Percentage of Total
Social welfare and community development	9.6	18.5	51.9
Education and research	6.2	23.5	26.4
Health	29.9	76.3	39.2
Arts and culture	0.3	1.7	17.6
Other	—	1.7	—
Total	46.1	121.7	37.9

SOURCE: Reprinted in REAGAN EXPERIMENT, *supra* note 32, at 233.

APPENDIX C

Table C-1

LEVELS OF INCREASE IN PRIVATE GIVING REQUIRED TO HOLD
NONPROFIT ORGANIZATIONS AT 1981 SPENDING LEVELS AFTER
TAKING ACCOUNT OF INFLATION AND BUDGET CUTS, 1982-1985

(In \$ billions)

	<i>Private Giving in Previous Year^a</i>	<i>Estimated Revenue Loss to Nonprofit Organizations</i>	<i>Percentage Increase in Private Giving Needed to Maintain Existing Value of Private Support and Offset Lost Federal Revenue^b</i>
1982	28.8	- 4.1	22.1
1983	32.3	-10.2	37.6
1984	36.3	-14.1	43.8
1985	40.8	-16.7	45.6

SOURCE: Data on private giving are from *Giving U.S.A., 1982 Annual Report* (New York: American Association of Fund-Raising Counsel, Inc., 1982).

^a. Assumes giving will continue to grow at 1981 rate of 12.3 percent annually for nonreligious organizations.

^b. Using economic assumptions in the administration's FY 1983 budget. Reprinted in REAGAN EXPERIMENT, *supra* note 32, at 236.

Table C-2

PROJECTED PRIVATE INDIVIDUAL GIVING UNDER THE 1981 TAX LAW AND PRE-
1981 LAW, 1981-1984

(In \$ billions)

<i>Year</i>	<i>Actual Dollars</i>			<i>1980 Dollars</i>		
	<i>Pre-1981 Law</i>	<i>1981 Law</i>	<i>Difference</i>	<i>Pre-1981 Law</i>	<i>1981 Law</i>	<i>Difference</i>
1981	45.0	44.5	- 0.5	40.8	40.5	-0.3
1982	52.4	49.1	- 3.3	43.4	41.3	-2.1
1983	60.2	54.7	- 5.5	46.0	42.9	-3.1
1984	70.5	61.5	- 9.0	49.9	45.5	-4.4
TOTAL	228.1	209.8	-18.3	180.1	170.2	-9.9

SOURCE: Clotfelter & Salamon, *The Impact of the 1981 Tax Act on Charitable Giving*, 35 NAT. TAX J. 171, 177-83 (1982). Reprinted in REAGAN EXPERIMENT, *supra* note 32, at 283. Table C-2 does not reflect the possible changes in projections due to the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, 96 Stat. 324 (to be codified as amended in scattered sections and titles of U.S.C.).