Philanthropy and Public Policy

Why it Matters in 2017

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Today’s Agenda

- Sharing our Stories: Why “Collective Voice Matters"
- The Federal Landscape and Potential Impacts On State Budgets
- Member Survey: What Concerns Us
- Nonprofit Advocacy: Permission Granted
- What Other Funder Networks Do
- World Cafés: What Is Our Imperative?
- Report Outs
Information Sharing

• The Federal Landscape and Potential Impacts on State Budgets

• Member Survey: What Concerns Us

• Nonprofit Advocacy: Permission Granted

• What Others Funder Networks Do
Interactive Sharing

- Sharing our Stories: Why “Collective Voice” Matters
- World Cafés: What is our Imperative
- Report Out and Next Action Step
Sharing our Stories: *Why “Collective Voice Matters*

- Share your best story: why your organization/service are important to your community.
- Person-centered or clear community benefit
- Examples of success in telling your story
Why Collective Voice Matters

- The environment requires collective action
- No bipartisanship – impenetrable walls of partisan political agendas
- Lessons from corporate culture: birds of a feather on issues of mutual concern
- If you are not at the table, you will be on the menu
- Numbers “talk”: phone calls to Congress, showing up at town halls and public meetings, marches, demonstrations, public shaming, resistance, rallies
- Reminds officials that they serve: “do your job!”
THE FEDERAL BUDGET PROCESS EXPLAINED

• Federal agencies begin developing budgets 18 months ahead of the next fiscal year in order to receive funding.

• Agencies must monitor the progress of their requests as they are pushed and pulled through the White House, House of Representatives and Senate.

• The budget has target dates for when an action is to be completed.

• Deadlines are often missed and there is no penalty for missing any.
THREE CATEGORIES OF SPENDING

- Mandatory
- Discretionary
- Interest on the debt
TOP THREE SPENDERS OF THE FEDERAL BUDGET

• Social Security
• National defense
• Medicare
“A New Foundation For American Greatness”

Trump’s top priorities for the FY 2018 budget include reform of healthcare, tax and immigration

The Trump administration’s eight pillars of reform

Health reform
- Trump’s plan suggests repealing Obamacare and replacing it “with a framework that restores choice and competition”

Tax reform
- The budget claims to simplify the tax system so individuals and corporations can spend less time filling out taxes

Reduction in federal spending
- In the budget Trump calls on Congress to “scrutinize every dollar the federal government spends”

Immigration reform
- The budget proposes reforming immigration “to reduce burdens on taxpayers ... and focus federal funds on underserved and disadvantaged citizens”

Regulatory rollback
- Trump’s plan calls for aggressive elimination of outdated federal regulation

Energy development
- The budget puts a focus on developing and cultivating U.S. energy resources to strengthen national security and lower the price of electricity and transportation fuel

Welfare reform
- Trump’s welfare reform aims to ensure able-bodied adults are not “discouraged from working, which takes away scarce resources from those in real need”

Education reform
- The education reform suggested in the budget is aimed to “return decision regarding education back to the state and local levels”

Proposed Federal Budget Cuts

- $54 billion more for defense
- Taken mostly from cuts in domestic programs: SNAP, TANF, CDBG, Education, Arts, Community Services, other Block Grants
- Cuts in Medicaid in health care proposals must be done to offset the tax cut proposed in the H and S bills for wealthy taxpayers
- Also possible: 2% across the board to get to $1.7 trillion in non-defense cuts over 10 years
Trump’s request calls for cuts in most departments compared to Obama’s final budget request

Overview of the FY17 and FY18 budget requests


May 26, 2017 | Justin C. Brown
Trump’s budget request makes many assumptions, requires other legislative wins to be fully realized

Important legislation affecting the budget

- The repeal and replace of Obamacare with savings amounting to $250 billion
- Medicaid reform with savings of $610 billion over 10 years
- SNAP benefits reform, including state matching at a rate of 10% in 2020 and 25% by 2023

3% growth?

A key component of Trump’s budget request is the assumption of 3 percent growth of the economy. This assumption is imperative to the proposal as it utilizes high tax revenues to fund certain program expansions while reducing the deficit. The Congressional Budget Office estimates future growth at about 1.9 percent and the Federal Reserve projects the economy will expand at a 1.8 percent annual rate.

Prospects for Passage?

• Crowded legislative agenda
• Unruly Republican Caucus
• Steadfast opposition from Democrats
• No inclination of House and Senate Republican Leaders toward bi-partisan deliberations
• Growing public skepticism
Crowded Fall Agenda

- **Agenda Items:** FY18 Budget, tax reform, debt ceiling, health package

- **September 30:** FY17 funding, SCHIP authorization, FAA and FDA user fee authorizations expire

- **September 30 and December 31:** Medicare extenders expire
May 24: President released FY18 budget request

- Funds the government at $4.094 trillion for FY18
- Reduces spending by $3.6 trillion over a decade
- Presidential budget requests are a starting point for Congress
FY18 Budget & Appropriations

- **April 15**: Traditional deadline for Congressional budget

- **May-July**: Congress completes appropriations bills

- **September 30**: Deadline to fund the government
Regular Order vs. Recent History

- **Regular order** = Pass the 12 annual appropriations bills by the end of summer for final consideration in Sept

- **Recent History** = Stopgap continuing resolutions (CR) and omnibuses
## Important Players

<table>
<thead>
<tr>
<th>Influential Group</th>
<th>Republicans</th>
<th>Democrats</th>
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<tr>
<td><strong>Congressional Leaders</strong></td>
<td>Speaker Paul Ryan</td>
<td>Leader Nancy Pelosi</td>
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<td>Leader Mitch McConnell</td>
<td>Leader Chuck Schumer</td>
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<td><strong>Appropriations Committee</strong></td>
<td><strong>Chairmen:</strong> Rodney Frelinghuysen (H), Thad Cochran (S)</td>
<td><strong>Ranking Members:</strong> Nita Lowey (H), Patrick Leahy (S)</td>
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<td><strong>Budget Committee</strong></td>
<td><strong>Chairmen:</strong> Diane Black (H), Mike Enzi (S)</td>
<td><strong>Ranking Members:</strong> John Yarmuth (H), Bernie Sanders (S)</td>
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<td><strong>House Freedom Caucus</strong></td>
<td><strong>Chairman:</strong> Mark Meadows</td>
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<td><strong>House Republican Study Committee</strong></td>
<td><strong>Chairman:</strong> Mark Walker</td>
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Complicating Factors

- **Topline Numbers:** No agreement yet on spending levels

- **Debt Ceiling:** Must be raised by early Fall

- **Sequestration:** Broad, government-wide spending caps set to go back in effect starting on October 1
Funding Options

- **Short-term CR**: temporary extension of current funding levels
- **Omnibus**: combined bills to fund through full fiscal year
- **2-3 minibuses**: groups of appropriations bills passed together in smaller legislative packages
What’s the Buzz?

*Taxes, Labor, and the Economy*

- Trump’s advisors claim that he can achieve his economic goals in a revenue-neutral way.
- However, some economists have estimated that Trump’s proposed infrastructure spending stimulus combined with tax cuts could increase the national debt by $6 trillion or more.
- Some also believe that Trump’s attitude towards trade deals along with his rhetoric about tariffs and currency manipulation could spark a trade war – particularly with Mexico and China.

*Source: National Journal*
**What’s Next for Health Care?**

- Will there be any more serious attempts to replace the ACA?
- Will Trump’s administration undermine the ACA?
- Will Planned Parenthood be defunded in the government shutdown fight?
- Will CHIP be reauthorized in time? Will UFAs be negotiated in time?
- What about entitlement reform and drug pricing legislation?
- Will ACA taxes be repealed through tax reform?

*Source: National Journal*
**Infrastructure**

- $1 trillion dollar plan requires $167 billion in equity investment from the private sector
- Investors get a tax credit (not subsidies to States and localities)
- Mature, revenue-based infrastructure assets, such as toll roads, which offer a chance of high returns with relatively low risk
- Likely not addressed until tax reform plan

*Source: National Journal*

However...
Democrats have a very different vision:

• Direct public funding
• Worker Protections (Davis-Bacon wages)
• Long-term funding for Highway Trust fund
• Environmentally conscious projects
• No link to health care
Bottom Line

• Successful passage of the necessary pieces to enable the President’s budget to become reality is questionable.

• A LOT of obstacles stand in the way – successful negotiations within the Republican Caucus and needed defections from the Democratic Caucus.

• Unlikely to be accomplished as imagined or presented.

• 2018 mid-term election looming.

Source: National Journal
State and Federal Relationship

Or the knee bone is connected to thigh bone...

- Federal money is widespread
- Feds and States policies tied together
- Tax codes connected
Federal Grants Account for Nearly One-Third of State Revenue

Share of total by category, state FY 2014

- Federal grants: 31%
- Other: 8%
- Service charges: 11%
- Taxes: 50%
Medicaid Accounts for Nearly Two-Thirds of Federal Grants to States

Distribution by program area, federal fiscal year 2015

- Medicaid: 65%
- Income security: 14%
- Transportation: 8%
- Education: 7%
- Everything else: 3%
- Other health: 4%
Federal Grants Vary as a Share of State Budgets
Percentage of state revenue from federal funds, state fiscal year 2014

pewtrusts.org/fiscal-federalism
South Carolina
30% - 34.9%
Best States Ranking – SC #45

- Median Income  $24,806
- Adult Wellness #32
- Child Wellness visits  #24
- Health Care Affordability #46
- Health Ins Enrollment #40
- Public Health #41
- Low Mortality Rate #42
- Housing Affordability #31
- Economy #16
- Labor Force Participation #42
- Business environment #33
- Entrepreneurship #29

- Government Fiscal Stability #19
- Government Budget Balancing 11
- Pension Fund Liability #36
- Education Attainment #34
- PreK-12 #48
- Crime and Corrections #41
- Public Safety #44
- Infrastructure #43
- Economic Opportunity #48
- Internet Access #43
- Equality #43

Source:  US NEWS AND WORLD REPORT, Best States Rankings
Impacts on Communities and Nonprofits

- Interconnections between budgets - predicted havoc for local elected officials and their ability to maintain levels of service
- Reductions in services and resources: contract services vs state payroll RIFs
- Delays or cancellation of proposed projects or expansion of services
- Public employee RIFs
- Other impacts in SC?
Storm Clouds on the Horizon for States?

• 2017 tax collections mixed:
  o generally up at the end of 2016: personal income, sales, gas taxes grew
  o corporate income tax declined – 5th quarterly decline
• Growth in tax revenue forecasted for remainder of 2016
• But...revenue forecasts for 2018 remain weak
• Oil-dependent states face significant fiscal challenges
• Fiscal uncertainty re: federal tax policy and potential cuts in federal aid

Source: Rockefeller Institute of Government
What about philanthropy?

They’ve got a lot of money to give away.

Don’t they?
Interconnected Budgets

32.5%

Source: National Council of Nonprofits
• South Carolina’s 507 foundations had assets of $2.5 billion and **giving of $165.7 million** in 2014.

Compare to the US Department of Education’s budget:

• 2014 discretionary budget for was **$44.4 billion**

• Discretionary and mandatory budget for 2017 was **$200 billion**.

**No comparison.**
Potential Implications for Philanthropic Grantmakers

• Expectations that the philanthropy sector to pick up the “slack”

• Federal Cabinet officials on the record saying the “charitable” sector or “private philanthropy” can do better than government (Carson - HUD; DeVos - DEd)

• More partnership outreach from federal programs

• Tax reform: good news or bad news?

What are you hearing?
Thank you to Friends of COF!

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Local Survey Results
The Legal Framework:
*Brief Overview of Rules for Lobbying & Election-Related Activity*

Prepared by Suzanne Friday
Senior Counsel and Vice President of Legal Affairs
BASIC LOBBYING RULES

Federal tax rules

• Private foundations: lobbying is prohibited
• Public charities: “insubstantial” lobbying is permitted
• Both: Other types of advocacy generally unlimited

State rules

• regarding reporting/registration may also apply

“Organizations that spend a substantial part of their activities influencing legislation* . . . are not considered to be operating exclusively for exempt purposes”

Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii), (iii), (iv)
WHAT IS LOBBYING?

Direct Lobbying:
• Communication
• With a legislator
• Expressing a view about specific legislation

Grassroots Lobbying:
• Communication
• With the general public
• Expressing a view about specific legislation
• Includes a “call to action”
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<th>LEGISLATORS DEFINED</th>
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**Legislators:**

- Federal, state & local level representatives and their staff
- Executive Branch officials when participating in formulation of legislation
- The public, if it is a ballot measure
- **Not** members of special purpose boards (planning commissions, zoning commissions, school board)
LEGISLATION DEFINED

Excludes:
- Regulations
- Litigation
- Executive orders
- Enforcing law
CALL TO ACTION

• Urging recipient to contact legislator(s)
• Providing address, telephone number, and/or other contact information of legislator(s)
• Providing mechanism to ensure communication with legislator(s)
• Identifying legislator(s)
INFLUENCE WITHOUT LOBBYING

There are many ways a private foundation can influence policy without engaging in “lobbying.”
1. EDUCATE LEGISLATORS ABOUT FOUNDATIONS

- Don’t assume that legislators know about you and what you do

- Information can help them improve the community
2. EDUCATING ABOUT ISSUES

• Educating Legislators
  • Discuss broad social, economic and other problems
    • NOTE: Expressing a view on a specific legislative proposal would make the activity lobbying

• Educating the Public
  • OK to mention legislation but remain nonpartisan
  • Cannot include a “call to action”
3. SELF-DEFENSE COMMUNICATIONS

• May express a view to legislators about issues affecting the foundation’s
  • Existence
  • Tax-Exempt Status
  • Powers and Duties
  • The Deductibility of Contributions

• Can be used *proactively*

• Not applicable to grassroots lobbying
4. INFLUENCING REGULATORY BODIES

Generally, communication with regulatory agencies (IRS, HHS, State agencies) is permitted . . .

However – exclusion may not apply if:
• Government employee participates in the formulation of legislation and
• Your intent is to influence legislation
5. PARTICIPATING IN LITIGATION

• Filing a lawsuit
• Submitting an amicus (friend of court) brief
• Serving as an expert witness

Reminder: Activity must further charitable purpose
6. JOINTLY-FUNDED PROJECTS (private foundations only)

- May communicate with government about an actual or potential jointly-funded project with the government
  - Limited to exchanging information on the subject matter of the programs
  - May not try to persuade the government official or employee to take positions on specific legislative issues

- Leveraging can be a key strategy
- Grant may be conditioned on government support
7. PROVIDING TECHNICAL ADVICE

• Must be provided to:
  • Legislature, legislative committee or subcommittee
  • In response to a written request
  • From the legislature, the committee or the subcommittee

• Opinions OK, only if:
  • Specifically requested, or
  • Directly related to the assistance being provided
8. NONPARTISAN ANALYSIS OR RESEARCH

• Required elements:
  o Full and fair discussion of the facts
  o Report may advocate a position on an issue
  o May discuss legislative issues
  o May **not** directly call the recipient to action
  o Appropriate distribution
Distribution

• Any appropriate manner
• With or without charge
• Share with both sides of an issue
9. FUNDING ADVOCACY

• Foundations are not required to prohibit the use of grant funds for lobbying unless grant requires “expenditure responsibility”

• General Support Grants:
  • Permissible, even if grantee has lobbying activities
  • No written or oral agreement that it will be used for lobbying
FUNDING ADVOCACY (CONT.)

• Specific Project Grants:
  • May fund up to the *non-lobbying amount* of the project budget
  • May rely on grantee budget, if reasonable
  • Do not earmark for the lobbying activity

<table>
<thead>
<tr>
<th>Project Budget</th>
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<tr>
<td>Total Anti-hunger project: $100,000</td>
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<tr>
<td>Lobbying: $10,000</td>
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<tr>
<td>Grant Request: $50,000</td>
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10. CIVIC PARTICIPATION

- Must be non-partisan
- Purposes
  - Encourage individuals to get involved in the process
  - Educate people about candidates
- May fund activities or directly carry out with others
10. CIVIC PARTICIPATION (CONT.)

• Voter registration drives
  o Special rules for private foundations
  o Key rules:
    ▪ Must be carried out over more than one election cycle
    ▪ Must cover at least five states
Prohibition on “Campaign Intervention”

Under no circumstances can a nonprofit or foundation:

“Participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”
WHAT IS “CAMPAIGN INTERVENTION?”

Facts and circumstances test, with some clearly impermissible activities, including (but not limited to):

• Endorsing candidates;
• Making any campaign contributions;
• Making expenditures on behalf of candidates;
• Asking candidates to sign pledges on any issue;
• Communications that explicitly or implicitly favor or oppose a candidate;
• Making a positive or critical reference to a candidate.
“The Secretary of the Treasury shall ensure, to the extent permitted by law, that the Department of the Treasury does not take any adverse action against any individual, house of worship, or other religious organization on the basis that such individual or organization speaks or has spoken about moral or political issues from a religious perspective, where speech of similar character has, consistent with law, not ordinarily been treated as participation or intervention in a political campaign on behalf of (or in opposition to) a candidate for public office by the Department of the Treasury.”
Defining Advocacy

Umbrella term for all types of engagement with policymakers (including elected and appointed officials and their staff) that is not specifically considered lobbying under the IRS definition.

(Treasury Regulations, Section 53.4911-2 and 53.4945-2).
Advocacy can include:

• Strategic Communications
• Policy maker Education
• Elected Official Engagement
• Policy Research
• Evaluation
• Public education
• Community organizing
• Funding lobbying groups (not by private foundations though)
• Grantmaking to advocacy organization
Extent of Engagement

- Strategic Grantmaking
- Coalition Building
- Grassroots Lobbying

- Commissioning Research
- Building Awareness
- Education for Policymakers
- Direct Lobbying
What Others Do

- *Council on Foundations* – Policy Committee, government relations team, DC lobbying representation on Capitol Hill, Congressional briefings, Congressional receptions,
- *Environmental Grantmakers* - biennial Federal Policy Briefing in Washington DC
- *Casey Family Programs* - grants to each State to support child welfare policies; non-partisan data source
- *Kansas State Health Foundation* – changed its IRS status to a public charity
- *League of CA Foundations* – stepping up State advocacy
- *William Penn Foundation* – funds fair education campaign and associated research
• **Pittsburgh Foundation** – policy advocacy staff position
• **Lumina Foundation and Robert Wood Johnson Foundation** – DC-based policy staff hired from Capitol Hill
• **Forum of Regional Associations** in partnership with COF – annual DC fly-in
• **Grantmakers Concerned with Immigrants and Refugees** – monthly policy call
• **Grantmakers for Education** – Policy Impact Groups - expand funders’ engagement with policy and advance their understanding of how to best inform and leverage policy
• **Charitable Giving Coalition** – 60 national associations dedicated to preserving the charitable deduction
• **Denver Foundation** – written policy stating its State and local policy advocacy work, affordable housing and access
• **Colorado Association of Funders** – public policy committee guides positioning on issues and actions
What can you do?

• Deliver critical messages
  - Impact on your community
  - Philanthropy can’t fill the gap
• Educate and build advocacy capacity of grantees
• Connect with nonprofit State associations and other coalitions
• Identify and share impacts on grantees
  - Survey grantees
  - Understand existing grant results
• Convene local leaders, nonprofits
• Create response networks
• Create funder collaborative for campaigns
How?

- *Personal visits, calls, letters & emails to Members of Congress or State Legislators* - at the Capitol or in state/district office
- *Events* – town hall meetings, visits to grant recipients, graduations, ribbon cuttings, public forums, etc.
- *Traditional media* – profile articles, op-eds, letters to the editor
- *Social Media* – Facebook, blogs, tweets – whatever people are reading
- *Campaigns* – communications, public education, coalitions
- *Research and Analysis* – issues, policy analysis, advocacy effectiveness
- *Rapid Response Funding* – crucial issues, unexpected actions,
- *Unrestricted Funding*
- *General Operations Funding*
Let’s Discuss

• What could be 1-2 mutually shared public policy goals?
• What does good governance mean?
• What do we need to build and strengthen our collective voice?