



Published on National Council of Nonprofits (<https://www.councilofnonprofits.org>)

Original URL: <https://www.councilofnonprofits.org/nonprofit-champion-december-12-2022>

Nonprofit Champion | December 12, 2022

Contact Congress Today

Time is running out as Congress rushes to finish its business and head home for the holidays. Nonprofit voices must be heard in the coming hours and days for any of the urgently needed policy priorities to get enacted this year. We urge all readers to call, text, and connect via social media with your Senators and Representatives and deliver this three-point message:

1. Charitable nonprofits are still reeling from years of significantly increased demand for services and unstable or declining resources;
2. The charitable giving incentives enacted by Congress, especially the Universal Charitable Deduction, helped nonprofits meet those needs and maintain services until the incentives expired at the end of 2021; and
3. We ask that you immediately restore and extend the charitable giving incentives through 2023 to provide support for nonprofits now while giving Congress time to consider permanent solutions.

Take Action: Tell your Senators and Representatives they must enact disaster relief legislation that restores and expands expired charitable giving incentives during the

lame duck session of Congress.

- Email ([Representatives](#), [Senators](#)) and tweet to your [Representative and Senators](#).
- Retweet messages from [@NatlCouncilNPs](#) and [#Relief4Charities](#) to your [Representative and Senators](#).

Essential Read: [Natural disasters keep coming. So should disaster tax relief](#), Tim Delaney, President and CEO of the National Council of Nonprofits, The Hill, Dec. 10, 2022. As the title suggests, the urgent nonprofit policy priorities are rooted in natural disaster tax relief and must be restored immediately for the well-being of nonprofits and the individuals and communities they serve. [Share this article with Members of Congress](#).

Federal

Plenty to Do in the Lame Duck, So Little Time

The federal government shuts down in five days unless Congress enacts an omnibus spending bill or, as expected, extends the stopgap continuing resolution for another week or longer. The current 117th Congress terminates in 22 days, at noon Eastern on January 3, 2023, and all pending bills die automatically. While lawmakers have shown they can get things done during this lame-duck session – passage of the [Respect for Marriage Act](#) is one example – stubborn negotiations, petty partisanship, and the simple desire to get home for the holidays are complicating completion of a very long list of priorities, including:

Omni or CR?: Most observers expect Congress to pass another short-term continuing resolution (CR) to keep the government funded past Dec. 16, but negotiators are publicly supporting a year-long CR that would run through September 2023. Many see this as an idle threat to secure more gains at the bargaining table. Substantively and procedurally, any legislative gains beyond spending levels must ride on board an omnibus spending law or other bills that can get through Congress and the President will sign. This includes earmarks that many charitable nonprofits have secured in various appropriations bills for fiscal year 2023.

Major Sticking Points: Congressional and appropriations leaders have yet to reach an agreement over how much to spend in FY 2023, with Republicans seeking larger funding increases for the defense budget than for domestic programs such as social services. Assuming negotiators can agree on a “top-line number,” other issues in play include reinstatement of a more generous child tax credit, relaxing business depreciation tax rules, and a [bipartisan retirement security bill](#) that includes a few provisions favored by nonprofits. Congress typically enacts a year-end tax bill with new provisions and the extension of expired tax breaks. There has been no definitive public indication whether tax legislation will be included this year.

Nonprofit Policy Priorities: As stated at the top of this edition of *Nonprofit Advocacy Updates*, everyone who cares about the work of nonprofits needs to demand that Congress extend three expired charitable giving incentives. Additional, urgently needed priorities include restoration of the employee retention tax credit and increase of the charitable mileage rate to match the standard business rate.

Advocacy Resources

- **Nonprofit Policy Priorities:**

- [Enable Charitable Nonprofits to Respond to the Current and Ongoing Natural Disasters](#), updated Sept. 13, 2022, signed by 34 national nonprofits.
- [Letter on Pandemic and Workforce Shortage Relief for Charitable Nonprofits](#), updated June 13, 2022, signed by 1,700+ nonprofits.

- **Universal Charitable Deduction:** [CGC Universal Charitable Deduction](#), Charitable Giving Coalition one-pager.
 - **Charitable Mileage Rate:** [Letter to Senate tax leaders](#), Dec. 1, 2022
 - **Natural Disaster Tax Relief:** [Natural disasters keep coming. So should disaster tax relief](#), Tim Delaney, President and CEO of the National Council of Nonprofits, *The Hill*, Dec. 10, 2022.
-

Federal FastView

Public Service Loan Forgiveness: More than 360,000 individuals working in nonprofit and government jobs earned \$24 billion in loan forgiveness through the [temporary waiver initiative](#) under Public Service Loan Forgiveness (PSLF) program, [according to Education Department data](#). The temporary PSLF waiver, which expired

on Oct. 31, clarified and expanded who has earned loan forgiveness via public service jobs to be eligible for relief and have previously denied payments counted. The PSLF program is still in effect and nonprofit employees with student loans should make sure they are eligible and receiving credit for timely federal loan payments. Learn more in [Student Loan Rollercoaster and How It Impacts Nonprofit Workers](#).

ERTC Training Guide: The IRS released an [Employee Retention Credit Training Guide](#), a 72-page tutorial on eligibility, definitions, and calculation of the refundable payroll tax credit. For instance, the definition of “gross receipts” for tax-exempt organizations is laid out on pages 26-27. Starting at page 65 there is a good chart comparing the evolving provisions of the four laws that created (and retroactively repealed the last several months of) the ERTC.

Independent Contractor or Employee?: The U.S. Department of Labor has published a [new proposed rule](#) for determining whether workers should be treated as employees or independent contractors under the Fair Labor Standards Act (FLSA). The distinction matters because under FLSA, employers must pay minimum wage and overtime to employees, but not to independent contractors. Read the notice of proposed rulemaking: [Employee or Independent Contractor Classification Under the Fair Labor Standards Act](#). The proposed rule is [open for public comments](#) through **tomorrow, Dec. 13**. See [tips for filing comments on proposed rules](#).

Syndicated Conservation Easements: The IRS and Treasury Department have issued proposed regulations designed to [curb syndicated versions of conservation easements](#) that allow investors to claim tax deductions that far exceed their interests in entities that had hold the property. The proposed rule would identify some syndicated conservation easement deals as “listed transactions,” a designation requiring that participants and advisers disclose them to the IRS or face penalties. Several courts struck down previous attempts by the government to restrict this form of easement, leading to the current rulemaking. The public is invited to [submit comments](#) on the proposal through **Feb. 6, 2023**.

Supreme Court Loosens Amicus Rules: The U.S. Supreme Court announced that starting next year, it will no longer require outside individuals and groups seeking to submit *amicus curiae* (friends of the court) briefs get advance [consent to file the brief from litigants on both sides of the case](#). For nonprofit advocates interested in helping to guide public policy through court filings, the new rule removes a potential hurdle for accessing the highest court in the land. [Learn more](#).

Preparing for 2023 Policy Action in the States

At the federal level, 2023 is expected to see gridlock with the House of Representatives led by Republicans and the Senate led by Democrats, resulting in fewer opportunities for nonprofits to move the needle on their policy priorities. Instead, policy action will happen at the state level, with two factors likely driving outcomes: the makeup of state legislatures and surpluses from federal funds and other sources.

State Legislatures: In 2023 the number of states with same-party control of state governments (both chambers of the legislature plus the governor) will be the lowest since 1952, according to the [National Conference of State Legislatures](#). Yet, still more than half of state legislatures will have super (veto-proof) majorities in both chambers, with 17 legislatures controlled by Republicans and nine by Democrats. Super majorities can give legislators more leeway in the outcome of a bill, especially when the governor is from an opposing party.

State Funds: Some states still have [surpluses](#) from sources such as the American Rescue Plan Act and other revenue streams, putting them in a favorable position to advance their programmatic priorities with spending to maintain, improve, or even create programs. In fact, most spending areas studied by the [National Association of State Budget Officers](#) saw increases in fiscal year 2021 and 2022, with a total of \$2.86 trillion spent in fiscal year 2022. States saw revenue growth, specifically from sales tax, personal income tax, corporate income tax, and other general fund sources. While tax cuts are an option under these conditions, the excess funds could also be invested in the work of charitable nonprofits, including by updating contracting rates, expanding access to child care and health care, and other policy priorities.

Help Us Improve This Newsletter

In 2023, the National Council of Nonprofits will launch a new website, and this newsletter will have a new name. While the look will be somewhat different, we want

to make sure the content is honed to what you as nonprofit advocates need to advance your missions. Do you need more (or less) federal, state, and local news? Do you want more (or less) focus on what happens in the legislative, executive, and judicial branches? Are the reports on research affecting nonprofits helpful? Does trendspotting assist you in getting ahead of the actions in your states?

Tracking Policy Solutions to Nonprofit Workforce Shortages

Throughout 2022, we have been highlighting the [workforce shortages crisis affecting nonprofits](#), their employees, and their communities. When nonprofits close, the public loses access to food, shelter, and other vital services nonprofits had provided and nonprofit employees suffer higher stress and burnout from increased caseloads. Many state legislatures responded to these crises, and some policies they enacted can support charitable nonprofits as they continue to face workforce shortages.

- **Connecticut** and **New York** included in their fiscal year 2023 budgets Cost of Living Adjustments (COLA) of [7.6%](#) and [5.4%](#), respectively, to reimbursement rates paid for nonprofit services.
- In **North Carolina**, [reforms to grants/contracting policies](#) at the state Department of Health and Human Services (DHHS) included a *de minimis* 10% indirect cost rate, three-month contract extensions for most nonprofits to ensure continuity of services, and a requirement that DHHS provide multi-year contracts to nonprofits.
- **Illinois'** new [Human Service Professional Loan Repayment Program](#) will provide aid in paying off student loans to eligible employees in community-based, human service organizations that contract with or received a grant from a state agency.

Worth Reading

- [Ohio nonprofits facing unprecedented demand, workforce issues](#), Erica Thompson and Eric Lagatta, *The Columbus Dispatch*, Dec. 11, 2022.
- [Vermont nonprofits struggle to keep up with salaries and benefits to attract the workers they need](#), Fred Thys, *VT Digger*, Dec. 8, 2022.

Worth Watching

- [Federal Mid-Term Elections: Impact on Charitable Nonprofits](#) (58:30), National Council of Nonprofits, Nov. 14, 2022, presents calls to action in support of #Relief4Charities policy priorities in the Lame Duck Session, and features insights from experts from Goodwill, Social Current, as well as Dance/USA and Opera America.
-

Trendspotting

Reforming Government Grants and Contracts

The pandemic exacerbated long-standing problems nonprofits face when performing services on behalf of governments pursuant to grants and contracts. The challenges imposed by governments are well documented (see [National Council of Nonprofits reports](#)) and are again on the front burner because of the [nonprofit workforce shortages](#). Pandemic-related practices of local, state, and governments have made the *status quo* untenable for thousands of organizations serving tens of millions of people. Nonprofits are committed to securing lasting reforms in the coming months. Here are recent developments worth following:

- **California:** A nonprofit coalition led by **CalNonprofits** is calling on state policymakers to reform six areas of the grantmaking/contracting relationship, namely providing contract startup funds, promoting multiyear contracts and prompt renewal, ensuring prompt payment, allowing flexibility in emergencies, committing to full-cost reimbursement, and securing equitable access to state contract opportunities. [Read the letter](#) and [news release](#).
- **Oregon:** After conducting extensive research, the [Nonprofit Association of Oregon](#) (NAO) and coalition partners are working to secure introduction of major reform legislation. The bill would create a Workforce Retention Fund to provide grants to nonprofit employers to help keep the nonprofit workforce intact, form a legislative task force focused on streamlining and simplifying contracting, improving payment delivery, reducing burdensome reporting requirements, and raising nonprofit wages, require contract improvements in the areas of eliminating reimbursement as a payment method and the

mandating payment of indirect costs

- **Vermont:** A recent report from **Common Good Vermont** on [Government Grants and Contracting](#) identified three primary challenges, all complicating the ability of nonprofits in the state to maintain staff and operations: grant and contract rates do not cover the costs of services or rise with cost increases over time; overly complicated or restrictive budget or invoicing requirements; and contract rates that do not fund overhead or administrative costs. Regarding the impact on charitable nonprofits, the report found, “The ability of nonprofits to attract and retain workers is hindered by underfunding, as well as the unpredictability of funding year to year. Nonprofits struggle to offer competitive compensation and temporary positions are even more challenging to fill.” Common Good Vermont is hosting a [nonprofit stakeholders meeting](#) on Dec. 14 to identify legislative and administrative solutions promote lasting reforms.
-

Numbers in the News

152

The number of counties in which no racial group is more than half the population, up 33% since 2010.

Source: [More US Counties Lack a Clear Racial Majority \(And People Are Getting Along Pretty Well\)](#), Tim Henderson, *Stateline*, Dec. 5, 2022.

2,386

The number of women who will serve in state legislatures in 2023, which is 32.3% of legislative seats. There are still 25 races that remain too close to call.

Source: [Results for Women State Legislative Candidates in Election 2022](#), Center for American Women and Politics, updated Dec. 6, 2022.

\$29.3 billion

The estimated costs of weather and climate disasters in September, which include Hurricanes Ian and Fiona. Note: this tracker only shows events with losses that exceed \$1 billion.

Source: [U.S. Billion-Dollar Weather and Climate Disasters](#), National Centers for Environmental Information (NCEI), National Oceanic and Atmospheric Administration, updated Oct. 11, 2022.

December is

- [National Car Donation Month](#)
 - [National Human Rights Month](#)
 - [Seasonal Affective Disorder Awareness Month](#)
 - [Universal Human Rights Month](#)
-

Upcoming Events

- Dec. 14, [Government Grants/Contracting](#), Common Good Vermont
- Dec. 20, [Day on the Hill Information Session](#), Momentum Nonprofit Partners
- Jan. 5, [Nonprofit day at the Capitol](#), Montana Nonprofit Association
- Jan. 6, [2023 Session Lineup](#), Minnesota Council of Nonprofits
- Jan. 9, [Legislative Preview](#), Maryland Nonprofits
- Jan. 10, [Nonprofit Advocacy](#), Idaho Nonprofit Center
- Jan. 10, [Nonprofit Policy Conversations](#) (Asheville), North Carolina Center for Nonprofits

Advocacy in Action

Who Reads Newspapers Anymore?

What's the point of writing an opinion article if nobody reads newspapers anymore? That's a partially valid point raised by a few PR professionals and people who tend to get their news via social media or brief updates on their phones. The thinking goes that maybe back in the days of old that everyone scoured the daily printed newspaper for articles they could clip, photocopy, and hand out or mail to contacts. But that day has long gone. Why spend the time when no one's going to read it? There are plenty of good reasons to write that opinion piece.

[Read More](#)