



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

Original URL: <https://www.councilofnonprofits.org/nonprofit-champion-february-7-2022>

Nonprofit Champion | February 7, 2022

Federal

The Agenda Ahead

Spending Negotiations Continue

The congressional plate remains full, including with reimagining the Build Back Better bill on environmental and social programs, updating election laws, and preparing for a Supreme Court nomination, to name only a few. But one issue stands out for immediate attention: funding the federal government. Facing the expiration of the Continuing Resolution (CR) currently funding the government through February 18, Congress this week is expected to pass another CR to give appropriators more time to negotiate how *much* Congress will spend on *what*. No one is suggesting that a government shutdown is looming. At issue are parity between defense and non-defense spending and a general preference by Republicans for lower funding amounts in CRs that are based on prior-year levels.

- **Why It Matters to Nonprofits:** Funding levels for programs typically performed by charitable nonprofits are not the only concern in the congressional negotiations and machinations. Continuing Resolutions cannot include the billions of dollars of “congressionally directed spending” (commonly called “earmarks”) that many nonprofits have secured by lobbying their Representatives and Senators. Those can only ride on appropriations bills. Also, a likely Omnibus spending bill – a massive measure that includes all or most of the 12 appropriations bills – can serve as a vehicle for pandemic relief for nonprofits and others. Therefore, much of the nonprofit policy agenda is on hold as appropriators negotiate.
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Interest Growing in Renewed Pandemic Relief

More Representatives and Senators are talking openly about the need for renewed and additional pandemic relief for individuals, nonprofits, and for-profit businesses, although cost tradeoffs abound. Numerous funding and tax provisions enacted during the pandemic expired by the end of 2021, including items usually included in disaster-relief packages, such as charitable giving incentives, employee retention credits, and payroll tax deferrals, as well as the expanded child tax credit. For more than a month, Senators have discussed putting more money into a restaurant relief fund and other business supports. Now, numerous publications are reporting an increased sense of urgency and willingness by policymakers to consider restoring expired relief provisions for nonprofits and others.

- *Roll Call* is highlighting advocacy efforts by charitable organizations to restore more generous [tax breaks for charitable giving](#) as Congress considers a fresh round of pandemic aid with the omicron variant caseload still at worrying levels.
- On the Employee Retention Tax Credit, reports quote Senate Finance Committee Chair Wyden (D-OR), whose committee has jurisdiction over the provision, as saying, “I like this program; I think it makes sense and I want to talk to my colleagues about what we can do.”

However, a [Washington Post article](#) generally highlighting interest in additional relief quotes Senate Republican Leader McConnell (R-KY) as saying, “Let’s start the discussion by talking about repurposing the hundreds of billions already sitting in the pipeline.” This suggests that he and other Republicans are likely to seek to claw

back previously approved funds, including what's still available of the \$350 billion in [Coronavirus State and Local Fiscal Relief Funds](#) enacted as part of the [American Rescue Plan Act](#) with only Democratic votes.

Nonprofit Policy Priorities

As the pandemic has dragged on beyond all expectations, charitable nonprofits of all types report at least three areas of challenges that must be addressed by policymakers.

The first is **resources**; charitable giving is down and giving incentives enacted by Congress have expired. Nonprofits are ramping up to call on Congress and the Administration to restore the **universal charitable (non-itemizer) deduction**, the **100% AGI cap** on individual donations, and the **25% income tax cap** on corporate donations.

Charitable organizations are also calling for action to help remedy the devastating and well-documented **nonprofit workforce shortage**. Solutions include extending and improving the **Employee Retention Tax Credit**, investing significantly in high-quality, affordable, and available **child care** options, enacting the **WORK NOW Act** nonprofit grants and jobs program, and making essential reforms to the **Public Service Loan Forgiveness** program to make it more accessible for nonprofit employees.

Finally, lawmakers must help address the precipitous **decline in volunteerism**, both to ensure organizations can continue to provide pandemic relief and recovery to communities and to promote civic engagement and healing. Specifically, nonprofits are seeking **capacity building grants** to assist in volunteer generation and management and **relief for volunteer drivers**. Soon, nonprofits throughout the country will be asked to engage in advocacy efforts to advance these priorities.

Learn More

- **Employee Retention Tax Credit** [background](#) and [ongoing advocacy efforts](#).
- **Nonprofit Workforce Shortage**: [The Scope and Impact of Nonprofit Workforce Shortages](#), National Council of Nonprofits, Dec. 13, 2021, using responses and comments from nonprofits throughout the country to explain the

causes and impacts of nonprofit workforce shortages and lay out solutions nonprofits can pursue at the local, state, and federal levels.

- [Public Service Loan Forgiveness](#) program and [Recent Improvements](#) that can help employees of charitable nonprofits and many public employers secure forgiveness of their federal student loans. [View the recent webinar](#) (Jan. 27) hosted by the National Council of Nonprofits and the Student Borrower Protection Center.
 - [Volunteer Mileage Rate](#), currently set in statute at 14 cents/mile.
 - [WORK NOW Act](#) – the Work Opportunities and Resources to Keep Nonprofit Organizations Well Act ([S. 740/H.R. 1987](#)).
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Bipartisan ERTC Relief

A very high policy priority of the charitable nonprofit community, the bipartisan [Employee Retention Tax Credit Reinstatement Act](#) (H.R. 6161), would restore the fourth quarter of eligibility for the ERTC that was repealed in mid-November via the bipartisan infrastructure bill. The business and nonprofit coalition [letter to President Biden and congressional leaders](#) states, “On behalf of the small businesses and organizations we represent, the employees who rely on them for their livelihoods, and the communities we serve, we urge you to restore the ERTC through the end of the year.” The letter is signed by 62 national organizations including 38 charitable nonprofits. A Senate version of the legislation could be introduced as early as this week.

TAKE ACTION: Contact your Representatives ([Twitter handles](#); [email](#); [telephone](#)) and urge them to cosponsor [H.R. 6161](#) to restore this important refundable payroll tax credit. Be sure to share the [coalition letter](#).

Donor Advised Funds

ACE Act in House

Last week, Reps. Pingree (D-ME) and Reed (R-NY) introduced the House version of the Accelerating Charitable Efforts (ACE) Act, a bill designed to “reform federal law to ensure funds donated to donor-advised funds (DAFs) are made available to

working charities within a reasonable period of time and provide incentives to speed up donation timelines.” The legislation would also update regulations for private foundations. Read the [news release](#) and the [bill text of H.R. 6595](#). The [Senate companion bill is S. 1981](#). The legislation has generated both strong [support](#) and [opposition](#) from within the charitable and philanthropic sectors.

Advancing DAF Principles

While the viability of the ACE Act is uncertain, the issues presented are generating reflections within the charitable and philanthropic sectors. Last week, **CalNonprofits**, the state association of nonprofits in California, published its working draft “[Principles for the Reform of Policies Governing Philanthropy](#).” The set of 10 principles seeks to strike a “better balance between donors’ interests in determining when and where donations are made, intermediaries’ interests in benefiting from holding funds, and the public’s interest in prompt and fair distribution of donated funds held in public trust.” The principles include emphasis on transparency, economic equality, and payout requirements.

Separately, a working group of the **Council on Foundations** released [recommendations to strengthen community philanthropy](#) and the use of donor-advised funds (DAFs). These include new thoughts on DAF payout requirements for community foundations, timelines for spending foundation contributions to DAFs, recommendations on inactive fund policies, and more.

Advancing Equity in the Sector

Trading Glass Ceilings for Glass Cliffs

Building Movement Project (BMP) released a new **Race to Lead** report, “[Trading Glass Ceilings for Glass Cliffs](#),” focused on the experiences of nonprofit leaders of color. It provides data on the added demands on Executive Directors of identity-based organizations, the challenges that BIPOC leaders face when taking over from white predecessors, and other realities of being a leader of color in the nonprofit sector. This latest report builds upon the findings of the 2019 [Race to Lead Revisited](#) report, as well as a [previous report on nonprofit executives](#) from the 2016 Race to Lead survey data.

Worth Reading

- [What will 2022 hold for nonprofits?](#), Liz Moore, Montana Nonprofit Association blog, Feb. 4, 2022, providing insights on the nonprofit workforce shortage, equity, well-being within the sector, hybrid workplace and programs, and tech advancements.
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Worth Watching

- [Politics And Religion: How The Two Intersect Despite A 1954 Law](#), Amber Strong, *Newsy*, Jan. 27, 2022, reviewing the broad nonprofit support for the “Johnson Amendment,” the decade-old federal law protecting charitable organizations from demands of candidates, political operatives, and donors to engage in partisan, election-related activities.
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Data for Advocacy

Take NFF's 2022 State of the Nonprofit Sector Survey

Raise your organization's voice through the Nonprofit Finance Fund's [State of the Nonprofit Sector Survey](#), now until Feb. 28, 2022. This vital national survey on the financial health of nonprofits collects data on the experiences of nonprofit leaders. The results help inform our sector's efforts to improve the lives of people in communities across the country. [Take the survey](#).

Listen to the Podcast

Promoting Democracy

“[1 Reg at a Time](#)” is the official companion podcast for National Voter Registration Day. Each edition will dive into the latest in voting and election news, interview the on-the-ground democracy warriors promoting nonpartisan civic engagement across the country, and lay out how groups and individuals of all shapes and sizes can get involved. First Episode: "[Introducing 1 Reg at a Time with Tappan Vickery of](#)

State and Local

Investing ARPA Funds

Notwithstanding the news that some in Congress want to claw back state and local funds allocated under the American Rescue Plan Act, governments at all levels are looking for and finding effective nonprofits in which to invest these once-in-a-generation resources. To date, at least 42 states and Washington, D.C., have [allocated a portion of their ARPA funds](#) to various relief efforts, according to the National Conference of State Legislatures. Much more spending is under consideration in state legislatures this month. Proposed legislation in [Alabama](#), [Delaware](#), [Idaho](#), and [Kentucky](#) call for using ARPA funds to shore up their state's unemployment trust funds or otherwise prevent automatic unemployment tax hikes that hit nonprofit and for-profit contributing employers. In [Rhode Island](#), a House bill would allocate \$119 million of ARPA funds towards families, small businesses and the tourism industry, and boost affordable housing and broadband planning. A **Vermont** proposal would provide \$17.5 million in grants and other incentives to support [creative sector businesses and cultural organizations](#) that have been disproportionately impacted by COVID-19.

Nonprofit Advocacy: Nonprofits have mobilized in the states to ensure governments recognize the value of investing in local organizations to address longstanding and pandemic-related problems. Here are a few examples out of many. The **Kentucky Nonprofit Network** and other nonprofits are asking the state's General Assembly to adopt an agenda that includes a \$150 million [Nonprofit Sustainability and Recovery Fund](#), a state [charitable giving tax deduction](#) available to non-itemizers, and funding and changes to state contracts to [address the workforce crisis](#) facing nonprofit health and human services organizations partnering with state government. The **Minnesota Council of Nonprofits** is calling for a \$200 million [Nonprofit Relief Fund](#) and lays out proposed eligibility, administration, and accessibility criteria for lawmaker consideration.

Together SC, the state association of nonprofits in the Palmetto State, is making a major push to secure \$100 million in ARPA funds to support the work of charitable

nonprofits. See their [sign-on letter](#) and [policy paper](#). Also, the **Pennsylvania Association of Nonprofit Organizations** (PANO) recently launched its campaign for ARPA funds with an [Action Alert](#), [sign-on letter](#), and [advocacy tool kit](#). Noting that more than \$6 billion of the Commonwealth's \$7.29 billion in ARPA funds remain unspent, the Action Alert states: "PANO is asking state and local officials to allocate ARPA funding to nonprofits throughout the Commonwealth, and we're asking you to communicate the same message to your state and local elected officials."

Worth Quoting

- "Idaho prides itself on private sector solutions and small government; now is the time for local cities, counties and the state to let nonprofits lead. Specifically, we have the opportunity to work together through the American Rescue Plan Act (ARPA), which has, in part, already infused a portion of the over \$5 billion allocated to the state of Idaho for relief and recovery efforts."

— Kevin Bailey, CEO of the **Idaho Nonprofit Center**, writing in [Nonprofits will be vital to distributing federal funds efficiently](#), *Idaho Business Review*, Jan. 26, 2022.

- "A statewide, competitive nonprofit grants program is fully within the intent of the federal aid package, and big, bold transformative investments in the work of nonprofits will strengthen the foundations of prosperity for all.... This is a once-in-a-lifetime funding opportunity to significantly invest in the work of our nonprofits and help make possible our shared vision of economic prosperity for all."

— Bill Barnet, Minor Shaw, and Anita Zucker , writing in [There's a piece missing from SC's economic development equation](#), *Charleston (SC) Post and Courier*, Jan. 30, 2022.

- "Although the solutions will be complicated, through public-private partnerships, targeted funding and community support, our state can tackle them. Providing students with a quality education, citizens access to health care and those in need supportive social services displays fiscal responsibility."

— Marnie Taylor, President and CEO of the **Oklahoma Center for Nonprofits** raising the ante on government-nonprofit partnerships in [Charity Inc.: Lawmakers should make most of historic opportunity](#), *The Journal Record*, Feb. 2, 2022.

Government Grants and Contracting Reform

The pandemic has brought renewed attention to longstanding challenges that nonprofits have confronted when providing services on behalf of governments pursuant to written agreements. ([See historic context](#).) Nonprofits and legislators in several states are seeking to do something about these enduring problems.

- **Failure to Pay Timely:** Legislative champions for nonprofits in **Maryland** are actively promoting bills ([H.B. 451/S.B. 542](#)) to establish invoicing and prompt payment requirements for specific state grants. The legislation would require that grants be paid within 30 days following the procedures that already apply to state procurement contracts. These bills will be heard in committee in about 10 days. **Maryland Nonprofits** is asking nonprofits with government grants to speak in support of these measures to address a problem that causes chronic cash flow issues for nonprofit providers when governments pay late and makes it difficult for smaller organizations to participate in state-funded programs. [Contact Maryland Nonprofits for more information](#) and updates on the legislation.
- **Pay Disparity:** Companion bills in **Massachusetts** ([H. 237/S. 105](#)) seek to eliminate the pay disparity that exists between the salaries of workers employed by nonprofit human service providers and state employees holding similar job titles who perform similar work. [Providers' Council](#) of Massachusetts explains that due to this salary disparity, “it is becoming increasingly difficult for community-based organizations to recruit and retain qualified workers in the sector, which contains nearly 180,000 jobs.” They stress that without a solution to the workforce crisis in the human services sector, “an increasing number of jobs will go unfilled and programs may close, leading to a loss of services for vulnerable Massachusetts residents.”

Child Care Availability and Affordability

With federal legislation on social policies bogged down, state and local governments are taking action to address concerns over that the lack of high-quality, affordable, and available child care options for working families. In **Michigan**, the [Tri-Share Child Care Pilot Project](#) increases access to and affordability of child care by sharing costs equally by an eligible employee, their employer, and the state of Michigan. The Tri-Share program is designed to catch families that fall in between making too much for federal aid but are [still squeezed on their monthly budget](#), and is funded by the state and private philanthropy. A committee of the **Nebraska** unicameral will consider a bill later this week to [expand the state's child care subsidy program](#) using ARPA funds. A measure before the **Tennessee** Legislature ([H.B. 1931/S.B. 1901](#)) would create a five-year pilot program to provide child care payments to eligible caregivers and allow the Department of Children's Services to work with a nonprofit to administer the program. Also, the **Washington, DC**, Council approved legislation authorizing the creation of a grant program for pay parity for early childhood educators with the intent to send direct payments of \$10,000 per eligible child care worker.

Numbers in the News

6.8%

The share of job vacancies in the economy overall in December 2021, or 10.9 million unfilled jobs. In the nonprofit sector, survey data finds that more than three out of four charitable employers have job vacancies, with 60% reporting vacancies of between 10% and 29% and another 16% with vacancies greater than 30%.

Sources: [Job Openings and Labor Turnover Summary](#), Bureau of Labor Statistics, Feb. 1, 2022; [The Scope and Impact of Nonprofit Workforce Shortages](#), National Council of Nonprofits, Dec. 13, 2021. See also, [January Data Shows Several Warning Signs for Nonprofits and Fundraisers](#), Dan Parks, *Chronicle of Philanthropy*, Jan. 31, 2022.

Upcoming Events

- Feb. 10, [Nonprofit Lobby Day](#), Nonprofit Association of the Midlands
- Feb. 15, [Jumpstart Advocacy](#), Nonprofit New York
- Feb. 16, [Public Policy Action Network](#), Momentum Nonprofit Partners (Memphis)
- Feb. 18, [State Budget and Furthering Racial Equity](#), Minnesota Council of Nonprofits
- Mar. 9-11, [South Carolina's Nonprofit Summit](#), Together SC
- Mar. 18, [Nonprofit Advocacy and What's at Stake in 2022](#), Minnesota Council of Nonprofits
- Apr. 12, [Oregon Nonprofit Leaders Conference](#), Nonprofit Association of Oregon

Advocacy in Action

Being the Unstoppable Force (in the Face of an Immovable Object)

What's a nonprofit leader to do when facing both a once-in-a-generation opportunity to move the sector forward and an impediment no less immovable than the state constitution? [Change the constitution](#), of course! In the coming weeks, Tsiporah Nephes and **New Mexico Thrives** are seeking to do just that.

[Read More](#)