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Federal

The Evolving Legislative Priorities List

After several legislative setbacks, the President and congressional Democratic leaders are adjusting their priorities to focus on what might still be doable. At a news conference last week, President Biden said they would need to break up the Build Back Better Act into smaller pieces in order to “get as much as we can now and fight for the rest later.” He highlighted energy and environmental issues as ones he thinks have the most support. Biden’s comments indicate a change in Democratic strategy. At the end of the week, Speaker Pelosi sent out a [“Dear Democratic Colleagues” letter](#) indicating a shift toward upcoming bipartisan legislation. She stressed at the outset that the “House must pass a strong omnibus” appropriations bill covering all discretionary spending for the rest of the fiscal year. The Speaker explained, “This Omnibus ... will address critical priorities for our country, including for our national security and for communities at home.” That legislation could be a vehicle for progress on many nonprofit policy priorities. In her letter, Speaker Pelosi also referenced their continuing efforts “to advance the provisions of the Build Back

Better Act, including those related to child care and family care, health care, and climate,” as well as community violence prevention initiatives.

Status Report

Vaccination and Testing Requirements

In companion rulings on January 13, the U.S. Supreme Court reinstated the stay of the [OSHA Emergency Temporary Standard](#), but allowed the [CMS Interim Final Rule](#) to remain in effect. In [NFIB v. OSHA](#), a decision supported by six of the nine Justices, the Court ruled that the OSHA standard “is stayed pending disposition of the applicants’ petitions for review in the United States Court of Appeals for the Sixth Circuit and disposition of the applicants’ petitions for writs of certiorari, if such writs are timely sought.” This means that the Court hasn’t struck down the standard that would have required employers with 100 or more employees to ensure their workers are vaccinated or tested regularly for COVID; it is only putting the standard on hold to allow the litigation to work its way through the lower courts. In [Biden v. Missouri](#), a 5-to-4 decision, the Court lifted injunctions against the rule from the Centers for Disease Control and Prevention requiring vaccinations for all applicable staff of employers receiving payments under the Medicaid and Medicare programs. Litigation will continue in the lower courts, but the vaccination mandate is no longer blocked and can be implemented by CMS. Read the statements from the [White House](#), the [Department of Labor \(OSHA\)](#), and the [Centers for Medicare and Medicaid Services](#) regarding next steps.

More Natural Disaster / Pandemic Relief Needed for Nonprofits

Congress allowed many pandemic-related relief provisions to expire by the end of 2021 under the mistaken belief that the dual health and economic crises were nearly over. The Delta and Omicron variants of COVID-19 have upended that presumption and charitable nonprofits are seeing growing staffing and financial challenges as a result. Congress needs to restore relief provisions designed to reduce the impact of natural disasters on the lives of residents.

Employee Retention Tax Credit

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. A business and nonprofit coalition sent a [letter to President Biden and congressional leaders](#) stating, “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, as laid out in the recently introduced Employee Retention Tax Credit Reinstatement Act (H.R. 6161).” The letter is signed by 51 national organizations including 32 charitable nonprofits. Advocates anticipate that a bipartisan group of Senators will introduce a companion bill in the Senate in the coming weeks.

☐ **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 at <https://bit.ly/3KGqz96>

Additional Priorities

Three important incentives for giving to the missions of charitable nonprofits expired at the end of 2021. They must be restored immediately; retroactive extensions enacted late in 2022 won’t incentivize the donations needed in communities now.

- **Universal Charitable Deduction:** The incentive allowed taxpayers claiming the standard deduction to still deduct charitable donations of up to \$300/individual and \$600/couple. See and share the [nonprofit letter in support of extending and expanding the provision](#).
- **100% AGI Cap:** This measure (that is regularly included in disaster-relief legislation) permitted individuals to donate cash to the work of charitable nonprofits and claim as a charitable deduction an amount up to 100% of their Adjusted Gross Income (AGI). The AGI cap returned to 60%. The nationwide pandemic is the exact kind of natural disaster that this giving incentive is meant to address.

- **25% Taxable Income Limit:** This allowed corporations to deduct charitable contributions of up to a quarter of their income, up from 10%.
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Federal *FastView*

Nonprofits are seeking to understand conflicting charitable giving data coming from different sources. A [recent Gallup report](#) presents a fairly rosy picture about giving in the country, while noting that the rate of volunteering is declining. However, the [Chronicle of Philanthropy](#) finds that other data sources show much lower rates of giving than the Gallup numbers. One recent study by Indiana University's Lilly Family School of Philanthropy found that the giving rate has fallen from 66 percent of U.S. households in 2000 to 49.6 percent in 2018, the latest year with comprehensive figures.

Data for Advocacy

Take the 2022 State of the Nonprofit Sector Survey

How has your organization changed through the COVID pandemic? How is racial equity showing up in your work? Add your voice to the largest national sampling of nonprofit leaders on nonprofit finance and its impact on missions. The Nonprofit Finance Fund [State of the Nonprofit Sector Survey](#) will open on Jan. 26 and run through Feb. 28, 2022. This is a vital national survey on the financial health of nonprofits. The Survey collects data on the experiences of nonprofit leaders and informs our sector's efforts to improve the lives of people in communities across the country. In the past, its findings have been widely used and cited by nonprofit leaders and boards, funders, advocates, policymakers, media, researchers, and many others.

[Take the Survey](#)

Student Loan Relief

Webinar on PSFL Reforms

The Department of Education recently announced an overhaul of the Public Service Loan Forgiveness (PSLF) program designed to provide a path to relief for millions of nonprofit and other public service workers who have been struggling under the weight of student loan debt. The big news is that borrowers who were previously ineligible because they had the wrong loan, were making payments on the wrong payment plan, or were knocked off track due to processing errors can now receive credit toward forgiveness for those years worked in public service. [Join this webinar](#) on **Thursday, January 27 at 4:00 pm Eastern** for updates to the PSLF program, guidance on how to navigate the new process, and an opportunity to ask questions about accessing debt relief.

[Join the Webinar](#)

State and Local

Raising Awareness

Nonprofit Workforce Shortages

Nonprofits, reporters, and policymakers are making the connection between staff and volunteer shortages at charitable nonprofits and the need for policy solutions that protect the people and communities those organizations serve. At a [news conference](#) last week, the **CT Community Nonprofit Alliance** released the findings of a survey of nonprofits facing an unprecedented workforce crisis, bringing to light how these issues are impacting nonprofits and the people they serve. Among the findings: 59% of responding nonprofits have a waiting list for services; the average job vacancy rate is 18%; and 91% report that it's difficult or extremely difficult to recruit employees. [Read the full report here.](#)

A Portland, **Oregon** television station took on the challenges nonprofits are facing with an in-depth report focusing on the real-world impact on individuals. While workforce shortages at for-profit businesses and governments may cause inconveniences, David L. Thompson of the National Council of Nonprofits said that "at nonprofits, it means a crisis," adding, "[We're talking life and death stuff here.](#)"

The report identifies burnout among nonprofit staff and lack of pay increases, a factor Thompson explained as caused in part by inflexibility in fixed government grants and contracts.

Nonprofit service delivery is also affected by a pandemic-related decline in volunteers. A [Minneapolis Star-Tribune](#) article recounts the challenges that many nonprofits are facing in trying to maintain operations with significantly fewer volunteers. It concludes that the volunteer shortages are compounding the strain on nonprofits already reeling from [staffing shortages](#), citing a report from the **Minnesota Council of Nonprofits**, and [food supply chain disruptions](#).

Worth Quoting

- “Something has to give, and if things keep going as they are, it will be the services that help many of New York’s neediest people.”

— [The nonprofit squeeze](#), Editorial Board, *Albany (NY) Times Union*, Jan. 5, 2022, reviewing the impact of the pandemic on nonprofits and observing.

Worth Reading

- [Nonprofits turn to tech to court younger, more diverse donors](#), Dylan Miettinen, *Marketplace*, Jan. 14, 2022, providing insights from Rick Cohen of the National Council of Nonprofits on the impact of the pandemic on nonprofit staffing, fundraising, and the embrace of technology.
 - [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 the nonprofit workforce shortage and lay out 10 **solutions** that state associations can pursue in their upcoming legislative sessions.
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Nonprofit Fundraising News

Regulating Fundraising Platforms

Starting in 2023, California law ([AB 488](#)) will [require online giving platforms](#) – like Amazon Smile, GoFundMe, and Network for Good – to disclose all processing fees upfront, get consent, in most cases, before using a nonprofit’s name to solicit funds, and distribute donations to nonprofits promptly, among other things. Online platforms will have to register with the California Attorney General (AG), placing them under the AG’s jurisdiction and supervision going forward. According to Jan Masaoka, CEO of [CalNonprofits](#), “This legislation impacts every single person who clicks on that ‘donate now’ button and every single nonprofit that receives funding this way.”

Regulating Games of Chance

Due to the pandemic-induced cancellation of many nonprofit fundraising events, lawmakers in several states have relaxed rules governing online fundraising opportunities. These can come in the form of online raffles and other games of chance that previously were highly regulated or forbidden. The potential for new fundraising opportunities is the good news. The bad news is that the laws and regulations, and the practices of online payment processors, vary widely. Continue reading to learn some of the things nonprofits need to look out for and find resources to make events legal and successful ... where permitted by law. Read [Games of Chance as Nonprofit Fundraisers](#).

Worth Reading

- [Philanthropy and Digital Civil Society: Blueprint 2022](#), Lucy Bernholz, Stanford Center on Philanthropy and Civil Society, Dec. 2021, providing the latest annual forecast on the use private resources for public benefit in the digital age. Each year, the *Blueprint* seeks to provide an overview of the current landscape, points to big ideas that matter, and points to potential breakthroughs in the coming year.
 - [The Biggest Issues to Watch in 2022](#), *Governing*, Jan. 18, 2022, providing context for the 2022 state legislative sessions with an overview of everything from abortion to taxes.
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Data on Impact

The just-published [Nonprofit Economic Impact](#) report from **The Foraker Group** in **Alaska** makes the case that “virtually everyone in Alaska is touched by a nonprofit – we are part of the community and the economy.” The report highlights six ways that show how Alaska nonprofits are doing their part to meet the challenges of the state’s economy. These categories of data and analysis include how nonprofits are [part of everyday life](#) in Alaska, are a [major economic driver](#), [leverage public funds](#) for maximum return, [partner with governments](#) to deliver essential services, provide [community investment and civic engagement](#), and [serve as a stabilizing force](#) in the COVID economy.

[Read the Full Report](#)

2022 Legislative Calendar

[2022 State Legislative Session Calendar](#), National Conference of State Legislatures, updated Jan. 19, 2022.

State of the States

Upcoming addresses by Governors:

- Jan. 24, Hawai`i
- Jan. 25, Alaska, Massachusetts
- Jan. 26, Michigan
- Jan. 31, Tennessee
- Feb. 2, Illinois, Maryland

[2022 State of the State Speech Schedule](#), including links to presented addresses, National Association of State Budget Officers, updated regularly.

Trend Spotting

Employment Policy

One of the most active areas of legislative introductions so far this year is employment policies affecting nonprofit and for-profit employers alike. A bill in the **Idaho** House and Senate would amend existing law to provide that [freedom from](#)

[discrimination](#) because of sexual orientation or gender identity is a civil right. Last week, the **Mississippi** House overwhelmingly passed an [equal pay bill](#), which would provide state legal recourse for employees paid less for the same work based on gender. Similarly, an **Indiana** [pay equity bill](#) would prohibit employers from paying wages that discriminate based on sex for substantially similar work. It would also bar retaliation against employees who inquire about their wages, require a nondisclosure of wage as a condition of employment, or require an employee to sign a document that denies the employee the right to disclose their wage information. A new bill in the **Nebraska** unicameral would allow counties to enact a [county minimum wage](#) that is higher than the state minimum wage rate. The **Vermont** House is considering a bill ([H. 257](#)) that would mandate that employers receiving state funds must a) certify compliance with state fair employment practices; b) provide a reliable work schedule; c) limit pay ratios of no more than 10 times (highest compared to lowest); d) limit terminations to good cause; and e) refrain from interfering with unionization and collective bargaining rights. Many of the bills are sponsored by lawmakers in the minority party of their state and unlikely to be enacted this year, but the scope and range of the legislative proposals clearly reflect both the pandemic and views on the lack of progress on these issues at the federal level.

Numbers in the News

72.1%

The percentage of nonprofit jobs restored since the depths of the pandemic in May 2022 when 1.6 million nonprofits workers were unemployed. Although adding more than 9,000 jobs in December 2021, the nonprofit sector is still more than 450,000 short of pre-pandemic levels.

Source: [COVID-19 Jobs Update, December 2021](#), Center for Civil Society Studies at Johns Hopkins University, Jan. 11, 2022. See also their [data estimates dashboard](#) for additional analysis.

Upcoming Events

- Jan. 26, [Regional Advocacy Forum – Hartford](#), CT Community Nonprofit Alliance
- Jan. 27, [6 Myths about Nonprofit Advocacy](#), Nonprofit Connect (Kansas City)
- Jan. 31, [DE Annual Budget Update](#), Delaware Alliance for Nonprofit Advancement
- Feb. 4, [2022 Session Lineup](#), Minnesota Council of Nonprofits
- Feb. 10, [Nonprofit Lobby Day](#), Nonprofit Association of the Midlands

Advocacy in Action

Partnering to Overcome Nonprofit Workforce Shortages

There is a mantra in the networks of the National Council of Nonprofits when applied to policy issues: **What’s the problem? What’re the solutions? Let’s get them done!** Recent activities in Illinois prove that the mantra isn’t unique to our networks; it’s the way to advance nonprofit missions through advocacy.

On January 21, the Association of Community Mental Health Authorities of Illinois, **Forefront**, the state association of nonprofits in Illinois, and a coalition of health and human services providers [held a virtual advocacy event to share their experiences](#) during the pandemic as providers of direct services and called for long-overdue solutions to the challenges they have faced for years. The event featured seven frontline health and human services professionals working in the fields of behavioral health, domestic violence, care of older adults, community health, and child care. Coalition partners shared proposals for immediate solutions to the workforce crisis. Importantly, a legislative panel of seven state elected officials shared bills that have been or will be introduced this session to support the sector and communities served by providers.

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