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Nonprofit Champion | November 14, 2022

Federal Mid-Term Elections: Impact on Charitable Nonprofits

Join nonprofits from across the U.S. to discuss the impact of the federal elections on nonprofits, their missions, and our communities. This webinar, hosted by the networks of the National Council of Nonprofits, will focus on the election results, how they affect the lame-duck session of Congress that technically starts today, and what nonprofits from many different subsectors can expect from and achieve in the 118th Congress.

[Register for the Post-Election Webinar Now!](#)

Federal

The Elections, the Lame Duck, and Charitable Nonprofits

Americans repudiated extremism in the 2022 elections, thanks in part to nonpartisan voter engagement activities by charitable organizations that served as a stabilizing force in many communities. The fact that most nonprofit public policy positions have bipartisan support bodes very well for the coming weeks of the lame duck session. As of this writing, Democrats appear to have retained control of the U.S. Senate and Republicans are expected ultimately to earn a slim majority in the U.S. House. Because nonprofits can achieve policy progress when congressional control is divided (116th Congress - e.g., Paycheck Protection Program) or unified (117th Congress - e.g., ARPA), the question isn't **who** won but **whether** nonprofits will advocate effectively for their priorities.

Lobbyists and the [news media](#) have begun offering advice to congressional leaders on what they should achieve during the lame duck session. The pressing issues range from business tax breaks to raising the debt ceiling to avoid an economic crisis and protecting democracy. The charitable nonprofit community has [made its priorities known](#) for months. With the effects of the pandemic and repeated natural disasters still ravaging the country and more people turning to nonprofits for help, charitable organizations call on Congress to [restore and improve expired natural disaster tax provisions](#) that will help nonprofits overcome their need to increase services while facing [severe shortages of workers](#) and resources. Charitable nonprofits call on Congress to include the following priorities in any legislation enacted during the lame duck session:

- Renew the **universal charitable (non-itemizer) deduction** at least through 2022 and significantly increase the cap on the deduction, as proposed in the bipartisan Universal Giving Pandemic Response and Recovery Act (S.618/H.R.1704).
- Extend two additional disaster-relief giving incentives that expired on December 31, 2021: the provision permitting individuals who itemize to deduct charitable donations up to **100% of their adjusted gross income**, and the measure allowing corporations to deduct charitable donations up to **25% of taxable income**.
- Restore retroactively the **Employee Retention Tax Credit**, as proposed in the bipartisan ERTC Reinstatement Act (H.R. 6161/S. 3625), extend this refundable payroll tax credit through 2022, and modify the credit to better reflect increased nonprofit costs.

Take Action: Tell your Senators and Representatives they must enact disaster relief legislation that restores and expands expired charitable giving and employment tax incentives during the lame duck session of Congress.

- **Email** ([Representatives](#), [Senators](#)) and **tweet** to your [Representative and Senators](#) the new nonprofit disaster-relief letter. <https://bit.ly/3TD9I0G>
- **Retweet** messages from [@NatlCouncilNPs](#) and [#Relief4Charities](#) to your [Representative and Senators](#).

Learn more about [nonprofit policy priorities and what you can do to promote them](#).

2022 Election Analysis Worth Reading

- [Nonprofits Could Benefit From Tuesday's Divided Election Results](#), Alex Daniels, *The Chronicle of Philanthropy*, Nov. 9, 2022.
- [Angry electorate delivers split decision, shattering GOP hopes of a wave](#), Reid Wilson, *Pluribus News*, Nov. 9, 2022.
- [The Message of the Midterms](#), Yuval Levin, *National Review*, Nov. 9, 2022.
- [After the midterms, America and its democracy look stronger](#), *The Economist*, Nov. 10, 2022.
- [Twins, sons and happy meals: Things the 118th Congress will have that the 117th does not](#), Paul V. Fontelo, *Roll Call*, Nov. 9, 2022.

Federal Reserve Data Show COVID-19 Disruptions Continue

Seven out of 10 (70%) nonprofits responding to a recent Federal Reserve survey of entities that serve low- to moderate-income communities reported an increase in demand for services over the past year, while only 45% said they can meet most of their demand. Barely a third (34%) said they were “well prepared” to face disruptions in the coming year. The survey results that will be released this week, which update a survey the Fed conducted in 2021, asked again about the impact of the COVID-19 pandemic on households, on communities, and on the organizations themselves. For communities and the organizations serving them, **inflation, labor shortages**, and the **availability of child care** were top challenges. More than 1,700 entities responded, of which 69 percent were nonprofits.

Learn more: [Federal Reserve Data Reveals Continuing Disruption from COVID-19 Pandemic Among Organizations and Communities](#), Amy Silver O’Leary, National Council of Nonprofits blog, Nov. 9, 2022.

Federal *FastView*

Update on Giving and Donor Numbers: Although overall giving increased by 6.2 percent in the second quarter of 2022, it still failed to keep up with inflation, according to a new report from the [Fundraising Effectiveness Project](#) (FEP). The new data also show that the number of donors dropped by 7 percent compared to the second quarter of 2021. New and newly retained donors have now dropped for the fourth quarter in a row. FEP described this sharp decrease (dropping 17 percent for those giving less than \$100, and falling 8 percent among those giving \$101-\$500) as a “collapse” in the number of donors giving less than \$500 and one-time donors, the largest segments of donors, accounting for almost 98 percent of donors.

Treasury Targeting DAFs: The U.S. Treasury and Internal Revenue Service issued their annual [Priority Guidance Plan](#) that highlights projects on which they plan to focus resources this year, including (at pages 7-8) several issues relating to Donor Advised Funds (DAFs). The government intends to provide guidance on the public support calculations based on DAF grants, the treatment of DAF grants to supporting organizations, plus projects on potential excise taxes on donors, donor advisors and fund managers. These are among the 205 guidance projects Treasury and the IRS intend to accomplish during the plan year – July 2022 – June 2023. The previously announced goal of [restricting grants from private foundations to DAFs](#) is not included because it would require amending the Internal Revenue Code.

Public Comment Reminders

- **2030 Census:** The U.S. Census Bureau is seeking input and suggestions for the [design and operations of the 2030 decennial census](#). Some of the Bureau's priorities include ensuring that historically undercounted populations are included and having a better list of group quarters facilities, such as student housing and shelters for unhoused people. The Bureau [invites public comments](#) through **Tuesday, Nov. 15**. Learn more from this [blog post by the Census Bureau Director](#) and read the [comments submitted by the National Council of Nonprofits](#).

- **Independent Contractor or Employee:** The U.S. Department of Labor (DOL) 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 **December 13**. See [tips for filing comments on proposed rules](#).
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Charitable Giving Incentives

Grow Giving Now DC Fly-In | Nov. 15-16: You are invited to register for and participate in the Charitable Giving Coalition (CGC) fly-in lobbying event on Nov. 15-16 to promote restoration and improvement to charitable giving tax incentives. The Grow Giving Now DC Fly-In is a key element in the CGC's efforts to ensure the renewal and expansion of the non-itemizer charitable deduction that expired at the end of 2021.

[Register Here](#)

Update on Student Loan Debt Relief Programs

Public Service Loan Forgiveness: The U.S. Department of Education released final regulations on debt relief programs, including the Public Service Loan Forgiveness (PSLF) program, that will go into effect July 1, 2023. As a result of the revisions, nonprofit and other public service workers will be able to count additional previous payments toward loan forgiveness, request reconsideration for denied applications or previous payments that were not counted, and be deemed eligible for the program when they work at least 30 hours per workweek even if it's at multiple public service jobs. For more information, see these updated resources from the National Council of Nonprofits:

- [Nonprofit Perspective on Student Loan Relief](#)
- [Comparison Chart of Key Provisions in Final Regulations](#)

Student Debt Cancellation Plan: In August, the U.S. Department of Education announced it would cancel up to \$10,000 of federal student loan debt for individuals with incomes of less than \$125,000 and \$250,000 for married couples. The Department launched an application process in October, and in less than four weeks, about [26 million people had submitted their information](#). As of last week, the Department had [approved more than 16 million](#). However, an appellate court [temporarily blocked any final cancellations](#) until it can consider a lawsuit filed by six Republican state attorneys general challenging the plan. Late last week a federal judge in Texas [struck down the program](#). The Administration is appealing the decision and the Education Department has stopped accepting applications for the program while the legal issues are worked out.

Promoting Democracy

Exposing Johnson Amendment Violations

Investigative teams at the *Texas Tribune* and *ProPublica* have written extensive exposes on actions that appear to be blatant and intentional violations of the 1954 addition to Section 501(c)(3), known as the Johnson Amendment. That longstanding law protects charitable, religious, and philanthropic organizations from being misused or drawn into divisive partisan politics like endorsing or opposing candidates for public office. Their articles go into substantive detail on what is and is not permitted under the Johnson Amendment.

- [Churches are breaking the law and endorsing in elections, experts say. The IRS looks the other way](#), Jeremy Schwartz and Jessica Priest, *Texas Tribune* and *ProPublica*, Oct. 30, 2022.
- [Texas Churches Violate the Law Ahead of Tuesday's Election](#), Experts Say, Jeremy Schwartz, Jessica Priest, and Perla Trevizo, *ProPublica* and *Texas Tribune*, Nov. 6, 2022.
- [These 20 Churches Supported Political Candidates. Experts Say They Violated Federal Law.](#), Jessica Priest, Jeremy Schwartz, and Chris Morran, *ProPublica* and *Texas Tribune*, Nov. 7, 2022.

2022 Election Results

The 2022 state elections had 6,279 legislative seats and 36 governor races, with most of the results called as of this morning. The outcomes will affect nonprofit policy priorities for at least the next two years.

State Legislatures

At least 22 states will have a Republican-controlled legislature and governorship, 17 a Democratic “trifecta,” and nine will contend with divided government going into their 2023 legislative sessions, with two states still uncertain. See [Trifectas: 2022 Post-Election Partisan Breakdown](#). Many of these states still have surplus funds from the American Rescue Plan Act and other sources, and are facing workforce shortages in various sectors, making the next session decisive in addressing issues such as access to affordable child care, food security, housing, and workforce development.

Governors

Voters elected Democratic governors in 17 states, Republican governors in 17 states, with the races in Alaska and Arizona still not called as of this writing. Some notable gubernatorial firsts are that **Arkansas** will have its first female governor after [Sarah Huckabee Sanders](#) was declared the winner last week. **Massachusetts** Attorney General [Maura Healey](#) will become the state’s first female and openly lesbian governor. Former **Oregon** Speaker [Tina Kotek](#) has been elected the next governor and, four days after Healy, will become the second openly lesbian governor. [Wes Moore](#), Governor-elect of **Maryland**, who will be the state’s first Black governor, has extensive experience working with and for nonprofits, most notably as CEO of the Robin Hood Foundation from 2017 to 2021.

Ballot Measures

Last week, voters weighed in on 133 ballot measures that addressed issues ranging from election administration and labor law to tax policy. **Colorado** voters approved [Proposition FF](#), a measure that lowers and broadens the cap on itemized deductions (including charitable donations) for high-income taxpayers ostensibly to fund a new school meals program. More than 70% of **New Mexico** voters approved a first-in-the-nation constitutional amendment creating a [permanent fund for child care](#) that

is authorized to spend about \$150 million a year on early learning. Voters approved minimum wage hikes in [Nebraska](#) (\$15/hour) and [Washington, DC](#) (eliminating the lower “tipped wage”). In **Georgia**, voters approved an amendment to allow local governments to provide [temporary tax relief](#) for properties impacted by natural disasters. In [Arizona](#), [Arkansas](#), and [South Dakota](#), there were measures to raise the threshold for some ballot measures to a three-fifths majority; counting in Arizona continues, while the other two states rejected the measure.

2022 Election Analysis Worth Reading

- [Democrats surged to flip state legislatures, defying past GOP gains](#), Molly Hennessy-Fiske and Paul Kane, *The Washington Post*, Nov. 12, 2022.
- [Hiking taxes, protecting abortion and other issues voters greenlighted in the midterms](#), Shia Kapos, *Politico*. Nov. 10, 2022.
- [Democrats Defy the Odds to Score Gains in Legislatures](#), Alan Greenblatt, *Governing*, Nov. 9, 2022.
- [Democrats Hold Governorships, Make State Legislative Gains](#), Scott S. Greenberger, *Stateline*, Nov. 9, 2022. See the [additional election-results articles Stateline is tracking](#).
- [With D.C. divided, lobbying turns to the states](#), Reid Wilson, *Pluribus News*, Nov. 13, 2022.

ARPA Investments in Nonprofits

Local and state governments continue to invest American Rescue Fund Act resources in charitable organizations.

Arts & Humanities: Last week, Providence, **Rhode Island**, announced selection of 18 [arts and/or culture-based](#) nonprofits to receive a total of \$2.5 million for capital repairs and renovations, along with construction of new facilities.

Food Security: The St. Pete Free Clinic in St. Petersburg, **Florida**, has a \$535,000 two-year contract to implement a [Healthy Neighborhood Store Program](#) in the City’s food deserts.

Nonprofit Impact: On November 3, the Town Council of Lovettsville, **Virginia**, approved a \$25,000 [grant program](#) for nonprofits to address community needs.

Wisconsin's [Main Street Bounceback](#) program provides a one-time grant of \$10,000 to nonprofits moving into a vacant commercial space or expanding, with the goal of assisting with costs related to leases and operational expenses.

Tracking ARPA Spending

Nationwide: [ARPA Spending, National Council of Nonprofits](#), updated regularly.

State: [ARPA State Fiscal Recovery Fund Allocations](#), National Conference of State Legislatures, updated regularly.

Local: [Local Government ARPA Investment Tracker](#), Brookings Institute, updated regularly.

Numbers in the News

247,810

The number of borrowers who qualified for student loan forgiveness under the limited PSLF waiver as of early October 2022. While the period to apply ended on October 31, applications are still being processed.

Source: [Public Service Loan Forgiveness Data](#), U.S. Department of Education, updated Nov. 2022.

November is

[Native American Heritage Month](#)

Other Key Dates

- [Transgender Awareness Week](#) is Nov. 13 to 19
 - **National Philanthropy Day** is Nov. 15
 - **Giving Tuesday** is Nov. 29
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Upcoming Events

- Nov. 29, [Communicating with Legislators](#), Momentum Nonprofit Partners
 - Dec. 1, [Nonprofit Advocacy Summit](#), Oklahoma Center for Nonprofits
 - Dec. 7, [2022 Policy Symposium](#), CalNonprofits
 - Dec. 7, [Annual Nonprofit Conference](#), Connecticut Community Nonprofit Alliance,
 - Dec. 7, [NJ Nonprofits Conference](#), New Jersey Center for Nonprofits
 - Dec. 8-9, [2022 Annual Conference](#), Nonprofit New York
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Nonprofit VOTE Webinar

[Voter Turnout in the 2022 Midterms](#)

Wed. Nov. 16 @ 1:00 pm Eastern

Join this presentation to gain deeper insights into the demographics of the recent elections, how changes to voting processes and rights affected turnout, and lessons for how to grow voter participation in coming cycles. [Register now!](#)

R.E.S.P.E.C.T. for Nonprofits

Worth Quoting

- “The ARPA funds are critical to help make communities whole again as we navigate our way out of the pandemic... [Charitable nonprofits] have faced challenges due to increased demand for services and they have had to adapt to different operational needs, as well as declines in revenues in donations and fees. These funds will help them recover so they can continue to provide crucial services to our residents.”

— Greta Hansen, Santa Clara County (CA) Chief Operating Officer, quoted in [County of Santa Clara Launches \\$10 Million Community-Based Organization Grant Program](#), County of Santa Clara, Nov. 4, 2022, announcing a \$10 million grant program to support nonprofits, which will be administered by the Valley Medical Center Foundation.

- “I would invite you to champion the cause of nonprofits in this community.... Idaho’s nonprofits have given us so much, and we need to continue to ask as a community, what can we give them back to ensure they continue to thrive in 2023 and for the next 100 years.”

— Kevin Bailey, CEO of the Idaho Nonprofit Center, on the economic impact of nonprofits in Idaho and the resources that they need to thrive. [Nonprofits’ influence growing in North Idaho](#), Bill Buley, *Coeur d’Alene Press*, Nov. 9, 2022.

Advocacy in Action

Enhancing This Advocacy Newsletter, With Your Assistance

Recent articles in this section of *Nonprofit Advocacy Updates* have featured stories of nonprofits [posing questions to candidates](#), [listening to responses](#), taking overt [steps to maintain trust](#), and following through to [implement good ideas](#). We’re so committed to the substance of those articles that we’re prepared to follow it ourselves. As in, asking you what you think about this newsletter and making improvements to enhance public policy advocacy. [Please answer a few brief questions](#) to help you, us, and the nonprofit sector be as successful as possible.

In 2023, the National Council of Nonprofits will launch a new website, and this newsletter will have a new name (*The Nonprofit Champion*). 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 on legislative, executive, and judicial actions? Are the reports on research affecting nonprofits helpful? Does trendspotting assist you in getting ahead of the actions in your states? Thanks for your help!

[Share your views by answering a few brief questions](#)