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Federal

The Weeks Ahead

Unclear Path Forward for Congressional Priorities

The second session of the 117th Congress begins in uncertainty after the Senate negotiations stalled over the President's climate and social spending priorities, the [House-passed Build Back Better Act](#). There remain many must-pass priorities, most notably resolution of a spending plan to fund the federal government past February 18 when the current "continuing resolution" expires. But while negotiations continue on the appropriations measures, Senators are turning to other issues. Senate Majority Leader Schumer plans to bring the [Freedom to Vote Act](#) to the Senate floor and, if that fails, debate and consider changes to the filibuster rule by Jan. 17, Martin Luther King Day. Here is the [counter from Senate Republic Leader McConnell](#). Also, several Senators reportedly have begun talks on crafting a narrow [relief package for some hard-hit industries](#). Charitable nonprofits have stakes in these policies and many other policy priorities.

Worth Quoting

- “We write to urge the Senate as early as possible this month to consider and pass critical voting rights legislation – the John Lewis Voting Rights Advancement Act and the Freedom to Vote Act. Voting is essential to maintaining and preserving democracy and is one of the most important rights and responsibilities that U.S. citizens have. The U.S. Conference of Mayors adopted strong policy in support of such legislation in June of this year.”

— [Letter to Senate Leadership](#) signed by 140 mayors from 35 states, U.S. Conference of Mayors, Jan. 3, 2021.

Supreme Court Hears Cases Against Employer Vaccination Mandates

The Supreme Court heard oral arguments on Friday in two cases questioning the legality of the Biden Administration’s vaccination requirements intended to cover nearly 100 million workers. A majority of the Justices appeared likely to block the [OSHA Emergency Temporary Standard](#) affecting employers with 100 or more employees. Through their questioning, the Justices indicated less of a problem with a [rule from the Centers for Medicare and Medicaid Services](#) requiring vaccinations for all staff of employers receiving payments from the federal health care programs. OSHA has announced that it will start enforcing the emergency temporary standard this Monday, January 10, a factor that could cause the Court to issue a decision quickly.

Read more in these articles on [CNN](#), and in the [New York Times](#), [Politico](#), and [Washington Post](#).

Additional Resources

- [COVID-19 FAQs for Nonprofits](#), Lawyers Alliance for New York, updated Nov. 3, 2021.
- [COVID-19 Vaccination Requirements - Considerations for Nonprofits](#), North Carolina Center for Nonprofits, updated Dec. 17, 2021.

- [Vaccine Mandates and Your Nonprofit](#), National Council of Nonprofits, Sept. 15, 2021.
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Federal *FastView*

Student Loan Repayment Moratorium Extended

The U.S. Department of Education announced an [extension of the pause on student loan repayment](#), interest, and collections through May 1. The extension is expected to help 41 million borrowers with federal student loans save \$5 billion a month during the three-month extension period. This will continue to count towards fulfillment of Public Service Loan Forgiveness (PSLF) obligations as though payments were being made for everyone who meets program requirements. The PSLF coalition hosts live webinars the first Wednesday of the month to share information about qualifying for PSLF and the temporary waiver; the [next webinar is February 2](#).

Worth Quoting

- “Essentially, instead of repaying their debts by sending checks, borrowers repay by working in public-service jobs that might pay less than the private sector. It’s a way for the government to enlist everyday Americans to do good while making it easier for young people to start and support families.”

— Issac J. Bailey, writing in [Here's what forgiving student loans really means: A lifeline out of poverty](#), *The Washington Post*, Dec 23, 2021. Learn more about the [PSLF and loan cancellation](#).

Using a Race Prism

The Treasury Department announced it will examine by race who received stimulus checks last year as part of a broader effort to begin assessing tax questions through the prism of race. In a blog post, [Advancing Equity Analysis in Tax Policy](#), Department officials said it hopes to be able to paint a portrait of who receives the payments by race and other demographic factors.

SALT Cap

Four states are calling on the [Supreme Court to review their challenge](#) to the \$10,000 cap on federal deductions of state and local taxes (SALT) enacted as part of the 2017 tax law. Repeal or revision of the SALT cap has been a priority for lawmakers in so-called “high tax states,” and was included in the House-passed Build Back Better Act. [Read more](#).

News You Can Use

Advocacy Priorities Update

- **Employee Retention Tax Credit:** In December, a bipartisan group of Representatives introduced the Employee Retention Tax Credit Reinstatement Act ([H.R. 6161](#)) to restore the important incentive. See the [news release](#) and current list of nonprofits and other [employers endorsing the legislation](#). Nonprofits should contact their Representatives ([Twitter handles](#); [email](#); [telephone](#)) and urge them to cosponsor [H.R. 6161](#) to restore this important refundable payroll tax credit. Learn [more about the ERTC](#) and go to this [Take Action page](#) for more ideas.
- **Universal Charitable Deduction:** Shortly before Congress recessed for the holidays, the Charitable Giving Coalition sent a letter signed by more than 400 charitable nonprofits calling on congressional leaders to take action to [extend and improve the Universal Charitable Deduction](#). [See the CGC news release](#).
- **Pandemic Impact on Nonprofits:** The Federal Reserve System has conducted extensive research on how nonprofits are struggling to continue serving individuals and communities and the findings underscore the need for several nonprofit policy priorities, including the ERTC and the UCD, discussed above. See the survey findings, [Perspectives from Main Street](#), a [nationwide webinar](#), and the recent blog posting, [Nonprofits Struggle in the Face of COVID-19](#).

State and Local

Preview of 2022 State Legislative Sessions

Forty state legislatures convene this month for their [2022 sessions](#) and all but four (**Montana, Nevada, North Dakota, and Texas**) will meet in regular session at some point in the first half of the year. Most states are experiencing revenue surpluses, a factor that is changing the usual dynamic as policymakers and advocates approach what be achieved.

Here are three trends we are watching:

1. **Tax Relief:** This is an election year in most states, so tax policies – an in particular, tax cuts – are on the table. **New York** Governor Hochul announced in her [State of the State address](#) a plan to accelerate the phase-in of \$1.2 billion in middle class tax cuts. In **Nebraska**, lawmakers are targeting [reductions in individual tax rates](#) and other similar measures. New Mexico is considering a [reduction in current rates](#) for gross receipt taxes and a tax rebate proposal. A dozen or more states cut income tax rates during 2021. Several more are looking to follow suit this year, including **Idaho, Indiana, Iowa, Kentucky, Mississippi, and West Virginia**. For nonprofits, a noteworthy bill in **Alabama**, would [exempt property leased to nonprofit corporations](#) from the state's property tax.
2. **ARPA Investments:** States spent only about [half of their State and Local Fiscal Recovery Fund allocations last year](#) and the remainder of the \$195 billion in state allocations will be distributed by the federal government in May. As a result, investing American Rescue Plan Act funds will be a high priority. Legislatures are expected to address a number of funding priorities related to the missions of charitable nonprofits, such as affordable housing, child care access, health care, education, workforce shortages, and unemployment claims. In **Kentucky**, the Governor proposed using \$400 million of the state's allocation to provide [bonuses for frontline workers](#) who stayed on the job throughout the pandemic. On January 4, **Rhode Island** approved [\\$119 million](#) in ARPA spending for supporting the child care, hospitality, tourism, and event industries and assisting small businesses impacted by COVID-19. See ARPA Spending Rules Clarified, below.
3. **Vaccination Policies:** Even as the Supreme Court considers the legality of federal vaccination and testing requirements, states continue the trend from last fall of imposing their own restrictions and mandates on employer actions. The result – depending on the ruling of the Supreme Court – may be federal preemption of these laws, or a patchwork of conflicting and inconsistent laws

that could prevent nonprofit and other employers from protecting their employees, volunteers, clients, and the public from the coronavirus. Read more about [states enacting a patchwork of conflicting vaccination restrictions](#).

Schedules

When does your state legislature go into session?

Source: [2022 State Legislative Session Calendar](#), National Conference of State Legislatures, updated regularly.

State of the States

This week's addresses by Governors:

- **Jan. 11**, Florida, Indiana, Iowa, Kansas, South Dakota, Washington
- **Jan. 12**, West Virginia
- **Jan. 13**, Colorado, Georgia, Nebraska
- **Jan. 15**, Virginia
- **Jan. 19**, Missouri, North Dakota, South Carolina
- **Jan. 20**, Delaware, Utah

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

Worth Listening

- [State of State Legislatures 2022](#), a discussion with NCSL Executive Director Tim Storey about education, taxes, and oversight of the unprecedented federal money flowing to the states, National Conference of State Legislatures, Jan. 9, 2021.
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Worth Reading

- [Looking Back at 2021 in State and Local Government](#), Bill Lucia, *Route Fifty*, Dec. 29, 2021.

ARPA Spending Rules Clarified

The Treasury Department issued its [Final Rule for the State and Local Fiscal Recovery Funds](#) (SLFRF) program that makes many upgrades sought by nonprofits. The SLFRF program, enacted as a part of the American Rescue Plan, promises \$350 billion to state, local, and Tribal governments to support their response to and recovery from the COVID-19 pandemic. The final rule updates the [interim final rule](#) published in May and significantly clarifies the availability of funds for the work of charitable organizations. Treasury also published an [Overview of the Final Rule](#) that provides a page (p. 23) dedicated to **Assistance to Nonprofits**, highlighting eligibility based on things like decreased revenue (e.g., from donations and fees), financial insecurity, increased costs, capacity issues, and challenges to covering operating costs. Importantly, the final rule makes clear that governments can use SLFRF money to support nonprofits directly and can hire nonprofits to provide services to others (see pages 27-28, 171, and 208-211). This last point is critical because the earlier guidance had given some governments the impression that charitable nonprofits could only receive SLFRF funds as recipients of assistance.

Key Documents

- [Final Rule for the State and Local Fiscal Recovery Funds](#), Treasury Department, Jan. 6, 2022
- [Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule](#), Treasury Department, Jan. 6, 2022.
- **Special Report:** [Strengthening State and Local Economies in Partnership with Nonprofits](#): Principles, Recommendations, and Models for Investing Coronavirus State and Local Fiscal Recovery Funds, National Council of Nonprofits, Oct. 18, 2021.

Improving Equity Through Pay Transparency

Policymakers are turning to transparency mandates to promote workplace equity and overcome pay disparities. On December 15, 2021, the **New York City** Council approved a [measure requiring most employers in the city to post salary ranges](#) when advertising for job applicants. The law will take effect in April if it is not vetoed

by January 14. Employers would have to include the minimum and maximum starting salary for salaried or hourly positions. Bills introduced in the **New York State Assembly** and **Senate** would apply this policy statewide. **Massachusetts** is considering a bill ([S.1196](#)) that would require employers with 100 or more full-time employees to publicly report wage data by gender and race along with the organization's 10 highest earners. If these bills pass, New York and Massachusetts would join a growing number of states enacting similar measures. Beginning in 2023, **Rhode Island** will [require employers to provide a salary range](#) for job positions, and prohibit an employer from paying any of its employees a rate less than the rate for comparable work of others unless the employer can show the difference is justified under the law. In **Colorado**, the [Equal Pay for Equal Work Act](#) requires employers to keep records of job descriptions and wage rate history for employees during their employment and two years after they leave, and for them to post the compensation range and description of employment benefits for all positions.

Numbers in the News

47

The number of states that reported revenue collections higher than original budget projections in Fiscal Year 2021. The increase is partially attributable to the inclusion of federal funds and a lower baseline due to the pandemic.

Source: [Fall 2021 Fiscal Survey of States](#), National Association of State Budget Officers, Dec. 17, 2021.

Upcoming Events

- **Jan. 10**, [SLFRF Final Rule Briefing](#), Treasury Department
- **Jan. 11**, [NAM Legislative Update](#), Nonprofit Association of the Midlands (NE)
- **Jan. 11**, [WV Policy Institute](#), West Virginia Nonprofit Association
- **Jan. 12**, [SLFRF Final Rule Briefing](#), Treasury Department

Refusing to Suffer Silently

Kentucky Nonprofits Speak Out on Nonprofit Workforce Shortage Crisis

Suffering silently is perhaps the worst approach to advancing the mission of a nonprofit. Media accounts about the workforce shortages at restaurants and airlines can be seen everywhere and individuals are quoted sharing their experiences with slow service and cancelled flights. But what about the [well-documented workforce shortages at charitable nonprofits](#) and the impact on the individuals and communities they serve? Shouldn't this crisis be "above the fold" and top-of-the-broadcast for media outlets? Read more about how Kentucky nonprofits are not waiting silently for the news to get out; they are making news themselves.

[Read More](#)