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Federal

Congress Comes Back from Two-Week Recess

Nonprofits – as significant contributors to American society, economy, and democracy – have much at stake in the coming weeks as Congress returns from recess to confront an astounding array of self-imposed crises. By the end of this week, lawmakers must pass four appropriations bills, give themselves another extension, or allow a partial federal government shutdown in such areas as food assistance, transportation, and veterans affairs. A week later, they face the same options on the rest of the spending bills that fund the government. There is talk of an extension in the form of another temporary “continuing resolution,” but hardliners in the House are objecting, demanding inclusion of controversial social-policy riders or seeking more spending cuts.

Also on the immediate agenda is passage of a foreign aid package to provide support for Ukraine, Israel, humanitarian relief in Gaza, and Taiwan. The pressure to advance the bill through the House has increased in recent days in recognition of

the two-year anniversary of Russia's invasion of Ukraine and the mysterious death of imprisoned dissident Alexei Navalny. The showdown over this legislation, and the results of the appropriations debates, are further escalating Republican infighting in the House, and resulting in delays on many other priorities.

A Key Nonprofit Priority: The Non-Itemizer Deduction. In the Senate, no clear path has emerged for passage of a bipartisan tax bill, the *Tax Relief for American Families and Workers Act* ([H.R. 7024](#)). The bill that passed in the House by wide margins would expand the refundable child tax credit, restore three tax benefits for businesses that had been repealed or reduced in the 2017 tax law, [remove tax liability for payments to victims](#) of recent natural and manmade disasters, and increase subsidies for affordable housing. The legislation does not yet include restoration of the non-itemizer (universal) charitable deduction, an expired incentive that had provided taxpayers claiming the standard deduction the opportunity to get a tax break for donating to the work of charitable organizations. The Senate Finance Committee could hold a markup in March to give Senators the opportunity to offer amendments like the non-itemizer charitable deduction before the bill goes to the Senate floor. Otherwise, the non-itemizer must advance as free-standing legislation (unlikely) or as an amendment to other legislation such as appropriations bills.



ACTION ITEM: Senators need to hear immediately from the charitable nonprofit community. Call your [Senators](#) today and tell them: **“The Senator must insist on restoration of the non-itemizer (universal) charitable deduction as a provision in any tax package under consideration.”** You can also write your [Senators](#) to deliver the message via email.

Federal *FastView*

- **SALT Relief Rejected:** The House rejected on a procedural vote an effort to raise the cap on how much taxpayers claiming itemized deductions can deduct for state and local taxes (SALT). A key priority of Representatives from so-called “high-tax states,” the legislation ([H.R. 994](#)) sought to raise the cap from \$10,000 for households to \$20,000 for couples. Limiting the deductions, enacted as part of the 2017 tax law, has “disproportionately impacted high-cost states like New York, where the cost of living far exceeds the national average,” [said bill proponent Representative Lawler](#) (R-NY). The SALT cap is considered a key reason that only about 10% of taxpayers claim itemized deductions, which means that the 90% of taxpayers who take the standard deduction do not receive a federal tax incentive for donating to the work of charitable nonprofits.
- **Heads Up: Dates of Posted Form 990s May be Inaccurate.** The Form 990 information showing up on public-disclosure sites (e.g., GuideStar and ProPublica) may be incorrect due to an IRS technical glitch. The IRS is aware of the problem and reportedly will be taking corrective action in the next two weeks. The source of the issue appears to be an error that has 2022 data being superimposed onto 2021 forms. In an abundance of caution, nonprofits with outstanding or upcoming fundraising requests/proposals should consider sending their recently filed Form 990s directly to any funders or other entities requesting them.
- **Counting Nonprofit Workers:** Acknowledging that it is crucial for policymakers to have objective and accurate measures of labor market activity, Massachusetts Senators Warren and Markey recently urged the Labor Department and Office of Management and Budget to include funding to ensure that [nonprofit workforce data is included](#) in Bureau of Labor Statistics (BLS) quarterly surveys. They wrote that the BLS-generated data “provides industry leaders and public officials with vital information to make business and economic policy decisions.” The Senators expressed concern that the lack of nonprofit-specific data in the BLS reporting “presents a significant barrier to accurate and effective policymaking and sector planning.” Inclusion of nonprofit workforce data in the quarterly BLS surveys is a [major policy priority for the charitable sector](#) for the reasons stated by the Massachusetts Senators.
- **Federal Tax Code and Racial Disparities:** While some tax policies help alleviate racial and income inequities among working families with children – such as the earned income tax credit and the child tax credit – others exacerbate inequities in wealth and income and disproportionately benefit White taxpayers, according to [new research from the Tax Policy Center](#). The

new report finds that lower tax rates for capital gains and retirement savings overwhelmingly benefit wealthy White families; tax subsidies for homeownership worsen historical racial inequities; and tax credits for families help reduce some racial inequities but provide limited benefits for those with the lowest incomes. [Learn more](#).

- **Child Care Tax Credit Improvements Proposed:** Bipartisan legislation to update federal child care incentives and improve access to affordable and high-quality child care for American families was introduced earlier this month. The *Promoting Affordable Childcare for Everyone* (PACE) Act, introduced by Representatives Tanney (R-NY) and Schneider (D-IL), would increase the value of the credit for working parents, adjust the rate for inflation, and make the credit refundable. It would also increase and index the amount of pre-tax dollars parents can put into the accounts from \$5,000 to \$7,500. In introducing the bill, Representative Tanney said, “This pro-family bill updates federal child care incentives, expands accessibility, and ensures lower-income and working families can provide quality care for their children,” and that the “legislation will enable parents to go back to work, **helping to combat our nationwide worker shortage**.” (Emphasis added.)
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Worth Quoting

- “It is hard to find quality, affordable child care – and when workers can’t afford child care, they can’t pursue work opportunities, take care of a loved one, or attend college. We need to make child care less expensive, which is why I’m proud to introduce the bipartisan PACE Act with my colleague Rep. Claudia Tenney. This important legislation would directly provide working families with money in their pocket to put towards child and dependent care.”

— Representative Brad Schneider (D-IL), quoted in [Representatives Tenney, Schneider Introduce the Promoting Affordable Childcare for Everyone Act](#), Office of Representative Tanney, Feb. 14, 2024. Learn more about [nonprofit workforce shortages](#) and the role of child care incentives.

DAF Data Update

A [comprehensive analysis](#) of donor advised funds (DAFs) finds that only 7% had balances of \$1 million or more, and nearly half of all DAFs had total assets of \$50,000 or less. Reviewing giving patterns over a three-year period, the median payout for all accounts was 9%, although approximately 22% of DAFs were inactive, or had a zero payout rate. In an average year, nearly two-thirds of accounts (63%) made an outbound grant while more than one-third (37%) did not. Most grants (59%) were general operating grants as opposed to restricted grants (41%), although restricted grants tended to be of higher dollar value. According to the authors, the study includes information about DAFs from 2014 to 2022, covering aspects such as account size, age, type, donor demographics, contributions, grants, payout rates, and grantmaking speed. The report tracks nine years of activity from more than 50,000 accounts, with over 600,000 inbound contributions to DAFs and more than 2.25 million outbound grants from DAFs. Read the full report: [2024 National Study on Donor Advised Funds](#).

Worth Quoting

- “On one hand, [DAFs] are characterized as the fastest growing segment of the sector, attracting more dollars for charities. On the other hand, they are viewed as a means for donors to warehouse their wealth while still getting deductions for contributions they arguably still practically control.”

— Gene Takagi, writing in [National Study on Donor Advised Funds](#), *Nonprofit Law Blog*, Feb. 21, 2024.

State and Local

Hot Legislative Trends So Far This Year

With most state legislatures well into their stride for the year, several trends affecting the work of charitable nonprofits have emerged.

Child Care

Since a major [reason workers give for not coming to work](#) at nonprofits is lack of accessible and affordable quality child care, policy proposals affect not just the child care subsector but all charitable organizations with employees.

- Improved Subsidies: Two measures in **Arizona** ([H.B. 2850](#) and [S.B. 1389](#)) would increase assistance to families. A **Delaware** bill ([S.B. 59](#)) would require a uniform statewide child care reimbursement rate for all child care providers, while another ([S.B. 58](#)) would prohibit the state from charging copays for child care for families earning up to 200% of the federal poverty line. A **Nebraska** bill ([L.B. 856](#)) modeled on a **Kentucky** program would cover 100% of the child care costs for child care professionals if they work for a licensed child care facility, regardless of their household income.
- Tax Incentives: Legislation in **Maine** ([L.D. 1222 \(S.P. 503\)](#)) would encourage employers to help pay for child care by creating a refundable income tax credit of up to 50%, up to \$3,000 per child. Lawmakers in **Missouri** are considering a bill ([H.B. 1488](#)) to create three tax credits to help providers, employers, and promote charitable giving. Notably, the proposal would create the Child Care Contribution Tax Credit Act to provide a tax credit equal to 75% of a contribution up to \$2,000 to a child care provider or intermediary nonprofit that distributes funds to support a child care provider.

Government Grants and Contracting Reform

State legislators are [considering ways to reform government grants](#) and contracting processes to benefit recipients, including nonprofits. Two new bills would build on last year's [California Nonprofit Equity Initiatives](#) to strengthen nonprofits' essential partnership with state government. The first ([S.B. 1246](#)) would extend the [Prompt Payment Act](#) (enacted last year) to all signed final agreements between the state and charitable nonprofits. A second measure ([A.B. 2322](#)) would apply specific relief to small grant programs ("covered grants") of not greater than \$20,000 and one year in duration, require distribution of at least 50% of the grant award and up to 100% of the award upon execution, and require anyone administering a grant program using state funds to promote equity in distributing grant funds. A bill in **Kentucky** seeks to help nonprofits identify funding opportunities by establishing [a database of all state grants](#). A recently expanded **Vermont** measure ([H. 140](#)) would mandate prompt payment, streamline the grant application and reporting processes, promote adequate indirect cost rates, and establish a Working Group on State Grant

Processes with nonprofit representation.

Sales Tax Exemptions

Of the 47 states with a sales tax, 17 do not have a [blanket exemption for charitable nonprofits](#). **Maine** Governor Mills' [supplemental budget](#) proposes extending the current partial exemptions to all charitable nonprofits in the state. Legislation in **Kentucky** ([H.B. 442](#)) would exempt all resident, nonprofit educational, charitable, or religious institutions from sales taxes. The exemption would apply to both purchases by and sales from the nonprofits.

Worth Reading

- [‘We can’t function without them’: Local nonprofits urge state to boost pay for direct support professionals](#), Andrea Deckert, *Rochester (NY) Business Journal*, Feb. 13, 2024.
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American Rescue Plan Act Investments in Nonprofits

State, local, Tribal, and territorial governments have until December 31, 2024, to commit to how they will spend (obligate) their specific allocations of the \$350 billion in State and Local Fiscal Recovery Funds (SLFRF) enacted as part of the American Rescue Plan Act (ARPA). Many governments continue to use SLFRF to invest in charitable nonprofits. In **Connecticut**, the towns of Brandford and Guilford awarded \$53,500 in ARPA funds to the [Legacy Theater](#). Oakland County, **Michigan**, created a [Senior Volunteerism Grant](#) for local nonprofits that provide “senior-centered services, such as food delivery, transportation and home repairs, or have an existing senior volunteer program.” Last month, a special committee in Cumberland County, **North Carolina**, approved [reopening applications](#) to its Nonprofit Assistance Program after finding that the County still had \$1.8 million remaining: nonprofits have until [February 29](#) to apply. Appleton, **Wisconsin**, is planning to allocate another [\\$1.5 million](#) in “competitive grants for nonprofit organizations to support early childhood development, child care and families,” and another \$500,000 for “competitive grants for nonprofit organizations to support community wellness,

mental health and violence prevention.” [Learn more about nonprofit eligibility](#) and watch the [recent webinar recording](#) for helpful tips on how nonprofits can access these funds on which governments must commit to specific spending plans by the end of this year.

Worth Quoting

On New York City government spending cuts

- “Nonprofits and the communities they serve have faced unnecessary, severe disruptions and distress while being asked to develop and implement plans with unacceptably limited information. Nonprofits cannot plan or adjust plans without knowing whether projected cuts are real, how much they are, or how they would be implemented.”

— [Nonprofit New York Statement on April 5% Budget Cut Cancellation](#), Nonprofit New York, Feb. 22, 2024.

On nonprofit impact

- “Nonprofits are working tirelessly in communities all the time. But when the pandemic hit, nonprofits just continued to go to work. We saw a demand in their services increase and they have not stopped serving community. They have played a critical role in helping to keep people going and communities going all over Michigan both during the pandemic and post as well.”

— Kelley Kuhn, President and CEO of the Michigan Nonprofit Association, interviewed for [Celebrating nonprofits at the State Capitol in Lansing](#), *WILX 10 News* (Lansing, Michigan), Feb. 22, 2024.

Worth Reading

- [State Fiscal Debates to Watch in 2024: Natural Disaster Risk](#), Liz Farmer, *The Pew Charitable Trusts*, Feb. 1, 2024.
 - [Tennessee has tens of thousands of nonprofits; that's why a statewide association emerged](#), Dr. Kevin Dean, *The Tennessean*, Feb. 23, 2024.
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Worth Watching

- Remote video URL

[Nonprofits and Elections 2024: Why and How You Should Engage \(and stay nonpartisan\)](#) (1:15:26), National Council of Nonprofits, Feb. 22, 2024. This nationwide webinar featured national experts explaining how charitable nonprofits can engage in the 2024 elections in legal and nonpartisan ways and - more importantly - why it's to their missions' advantage to get involved.

Numbers in the News

25.2%

The percentage of post-secondary graduates employed at a nonprofit at some point within five years of graduation in Kentucky.

Source: [More than Charity](#), Kentucky Nonprofit Network, Feb. 2024.

Nonprofit Events

- Feb. 27, [Nonprofit Advocacy Summit](#), Tennessee Nonprofit Network
- Feb. 28, [Nonprofits + Philanthropy Day of Advocacy](#), AZ Impact for Good
- Feb. 28, [Nonprofit Day on the Hill](#), Tennessee Nonprofit Network
- Mar. 5, [2024 Legislative Breakfast](#), Wyoming Nonprofit Network
- Mar. 6, [The State of New Jersey's Nonprofit Community](#), NJ Center for Nonprofits
- Mar. 7, [Oklahoma Nonprofit Advocacy Day](#), Oklahoma Center for Nonprofits
- Mar. 14, [Connect and Talk Story with Hawaii's Congressional Delegation Staff](#), Hawai'i Alliance of Nonprofit Organizations

Advocacy in Action

Creating Funding Opportunities Through Advocacy

Data show that the charitable nonprofit sector collectively earns nearly two and one-half times more revenue by performing under government grants and contracts (31.8%) than it receives via donations from individuals, foundations, and corporate giving combined (13.1%). See [Nonprofit Impact Matters](#). Governments at all levels often “come calling” on nonprofits to provide services for the governments, or they publish notices of funding opportunities (request for proposals) with specific application forms and due dates. But sometimes governments have money to spend, but don’t even think of turning to charitable organizations as being eligible, appropriate, or available. In those cases, nonprofits have to create their own opportunities through effective advocacy.

[Read more](#)

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