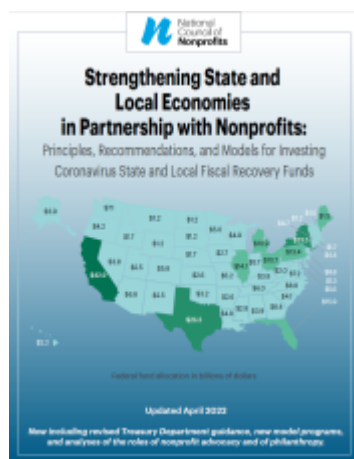




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## Nonprofit Champion | May 2, 2022



### Investing ARPA Funds for Community Impact

The federal government is sending billions of dollars to 30 states and thousands of localities this month for their second installment of funds to spend, at their discretion, on pandemic-related programs and projects. The law expressly authorizes state, local, Tribal, and territorial governments to invest their allocations in the recovery and work of charitable nonprofits. But while nonprofits are **eligible** for that funding, they are not **entitled** to receive the funds, and therefore must advocate for public officials to include nonprofits.

The networks of the National Council of Nonprofits updated and expanded the Special Report: [Strengthening State and Local Economies in Partnership with Nonprofits](#). This resource provides the latest federal guidance and fresh examples

from across the country. It can serve as a guide for governments, charitable nonprofits, and foundations on investing these funds – totaling \$350 billion – to help communities respond, adapt, and recover from the COVID-19 pandemic. It also includes new sections on [effective nonprofit advocacy campaigns](#) and examples of [how foundations can support the equitable distribution](#) of ARPA funds. Read the [Executive Summary](#), the [full report](#), and the [User's Guide](#). And check back regularly for [updated resources and other information](#).

See the [announcement](#) and read the articles posted below on new federal guidance and examples of state and local activities devoted to securing ARPA investments.

## Federal

### Treasury FAQs Further Clarify Nonprofit Eligibility for ARPA Funds

The U.S. Department of Treasury posted updated guidance reinforcing and further clarifying that state, local, Tribal, and territorial governments have full authority to invest in charitable nonprofits when spending their allocations of federal funds made available under the American Rescue Plan Act. The new guidance, titled [Final Rule: Frequently Asked Questions](#), updates answers to questions related to the Coronavirus State and Local Fiscal Recovery Funds. Most notably, FAQ 1.8 expressly states that governments may devote their allocations of federal money to charitable nonprofits in two important ways: nonprofits as **recipients of relief** (beneficiaries) and nonprofits as **providers of relief** to others:

**Nonprofit as the Recipient of Relief:** a government “recipient can provide funds to an entity, including a nonprofit organization, for the purpose of directly benefitting the entity as a result of the entity experiencing a public health impact or negative economic impact of the pandemic. In this instance, these entities will be considered **beneficiaries, not subrecipients**, and will not be expected to comply with subrecipient reporting requirements. Beneficiary reporting requirements will apply.” (Emphasis added.)

**Nonprofit as Provider of Relief to Others:** “the final rule clarified that recipients may transfer funds to any entity to carry out, as a subrecipient, an eligible activity

on behalf of the SLFRF recipient (transferor), as long as they comply with the SLFRF Award Terms and Conditions and other applicable requirements. A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be considered a **subrecipient** and will be expected to comply with all subrecipient reporting requirements.” (Emphasis added.)

Other answers can be equally helpful. FAQ 2.0 details the types of services that are eligible for funding to address the “negative economic impacts of the pandemic.” FAQ 2.20 acknowledges that money can go to install and improve ventilation systems, and FAQ 2.22 explains governments can dedicate the resources to help improve nonprofit-owned outdoor spaces to mitigate the spread of COVID-19. See also, [Treasury Final Rule](#), [Overview of the Final Rule](#), and [Governments Can Use ARPA Funds to Partner with Nonprofits in Two Broad Ways](#).

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## Federal *FastView*

**Bill Introduced to Strengthen Nonprofit Sector:** Last week, Reps. McCollum (D-MN) and Upton (R-MI) introduced the [Nonprofit Sector Strength and Partnership Act](#) (H.R. 7587), a bill designed to strengthen the nonprofit sector and its relationship with the federal government. The bipartisan bill would establish structures through which the federal government could engage with nonprofits, including a nonprofit-focused office in the White House with a commission on federal grants reforms, an interagency council to promote government/nonprofit partnerships, and an advisory board on the nonprofit sector. The bill would also direct federal agencies to provide better and more regular data on nonprofit jobs and volunteers. See the [legislative text](#), [Fact Sheet](#), [Section-by-Section Summary](#), and [News Release](#). For additional views, read [\\$50 Million NPO Bill Introduced In Congress](#), *The NonProfit Times*, Apr. 26, 2022.

**IRS Beefing Up Tax Exempt Outreach, Enforcement:** After almost a decade of decline in the size of the IRS division that oversees the tax-exempt sector, the Service is staffing up and plans to focus on both outreach and enforcement, according to a [recent message from the Commissioner](#) and Deputy Commissioner of the Tax Exempt and Government Entities (TE/GE) division. “As we work to educate our stakeholders, we must also continue to enforce the tax laws, especially to ensure that those who take advantage of the exempt sector to enrich themselves

are held accountable,” they wrote. Compliance efforts will target COVID-related employer credits, syndicated conservation easements, and [abusive charitable remainder trusts](#) among others. The division also plans to collaborate with the new Taxpayer Experience Office “to show Americans that we are working to meet them where they are with a focus on multilingual assistance, increased digital services, proactive outreach and advanced data analytics.” Read the [FY 2022 Program Letter](#).

**Child Care Provider Appreciation Day:** Friday, May 6 is a day to [thank a childcare provider](#). Child care providers -- teachers, nannies, and caregivers -- were “essential” long before the pandemic, keeping children safe, nurturing their curiosity, and preparing them for a lifetime of learning and growth. Today, as the country continues to re-open and employees return to in-person work, a robust child care workforce will be key to ensuring families can continue to earn a paycheck and our economy continues to recover. Join the [YWCA USA](#), [Child Care Aware of America](#), and other organizations in celebrating Child Care Provider Appreciation Day on Friday, May 6, right before Mother’s Day. [Learn more](#).

**Mental Health Workplace Initiative:** In recognition of May as Mental Health Awareness Month, leaders of several organizations have issued a call “for an increased commitment by American business and nonprofit leaders to transform the nation’s workplace culture by prioritizing employee mental health,” according to an [American Psychological Association news release](#). Individuals can visit the [Striving for mental health excellence in the workplace](#) webpage to learn specific, research-supported steps to bolster employees’ mental health and foster a psychologically healthy workplace.

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## Advancing Nonprofit Policy Priorities

*The [nonprofit community letter](#), discussed below, calls on the Administration and Congress to help alleviate the nonprofit workforce shortage crisis that is limiting the delivery of services to the public. The following policies address reducing the costs of education that can be barriers to working for charitable nonprofits.*

**Public Service Loan Forgiveness Update:** Last month, the U.S. Department of Education [announced action](#) that will help many nonprofit employees move closer to student loan forgiveness under the Public Service Loan Forgiveness (PSLF) program. By addressing a variety of longstanding failures in the administration of

student loan programs, the Department estimates that 40,000 borrowers (including many nonprofit employees) will receive immediate loan cancellation through the PSLF program and that 3.6 million borrowers will move closer to loan forgiveness through income-driven repayment.

**Post-Graduation Scholarships Legislation:** Private and community foundations are promoting federal legislation to provide graduate students with greater access to philanthropic support. The Workforce Development Through Post-Graduation Scholarships Act ([H.R.4095/S.2191](#)) would define post-graduation scholarship grants as a charitable activity for purposes of foundation grantmaking and would exclude post-graduation scholarship grants from an individual's taxable income, thereby reducing the costs on students. The legislation also contains provisions to ensure that the program benefits those communities most in need.

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### ***Worth Watching***

- [Accessing Public Service Loan Forgiveness](#), webinar presentation of the National Council of Nonprofits and the Student Borrower Protection Center, Apr. 5, 2022.
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### ***Worth Reading***

- [Volunteers are the Bees of Our Sector – And They're in Trouble](#), Jan Masaoka, CalNonprofits Article, Apr. 19, 2022
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## **Read the Letter, Sign the Letter**

The [nonprofit community letter](#) is proving to be a powerful advocacy tool for communicating to Congress and the Administration the immediate needs of frontline organizations. The letter was updated on April 25th to show the support of more than 1,650 organizations from all 50 states. The letter remains open for all charitable organizations to sign and circulate to show Congress and the White House that nonprofits in local communities throughout the country support these priorities.

# State and Local

## ***State Law Roundup***

### **Action in the States, 2022**

Today, a majority of state legislatures continue to meet in regular session, with 27 still in active session (including NC, which starts May 18) and 23 having either already adjourned sine die for the year or not convened in this even-numbered year, as their state constitutions dictate (MT, NV, ND, TX)). More than 200 bills would directly impact the work of charitable nonprofits, including the following examples.

**Arts and Culture:** The newly enacted state operating budget ([S. 8000E](#)) in **New York** includes a 5% increase in funding for the state's Council on the Arts, which so far this current fiscal year has [granted more than \\$100 million to nonprofits](#) and municipal and Tribal governments. The separate state capital budget ([S. 8004D](#)) appropriates \$50 million for Nonprofit Infrastructure Capital Investment Program grants and another \$10 million for Council on the Arts capital projects. A measure pending in [California](#) calls for prioritizing Museum Grant Program funding for projects that serve underserved communities, protect at-risk cultural resources, support ethical stewardship of sensitive art and artifacts, and educate the public about critical California issues.

**Employee Benefits:** Last month, the **Kentucky** Governor signed legislation establishing the [Employee Child-Care Assistance Partnership](#) program and appropriating \$15 million for a new related revolving fund. The program incentivizes employers to voluntarily create child-care assistance programs for their employees by having the state match up to 100% of the employer's contributions. A newly passed bill in **Maryland** expands a [tax credit for employer-provided commuter benefits](#) to include some carpool programs, telework, active transportation, and multimodal commuter programs. The underlying law expressly includes nonprofits in the definition of eligible "business entities."

**Employee Protections:** Perhaps the hottest legislative topic this year is creation or expansion of workplace rights. In [Tennessee](#), starting July 1, employers may not pay less than the federal minimum wage to any worker regardless of an impairment by

age, physical, or mental deficiency or injury. The newly enacted Equal Pay for Equal Work Act in [Mississippi](#) prohibits an employer from paying an employee less than the rate at which an employee of the opposite sex is paid for equal work, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions. Starting next year in [Washington](#), employers with 15 or more employees must disclose hourly pay rates or salary ranges, benefits, and other compensation in all job postings. In **New York**, lawmakers gave certain human services workers a [5.4% Cost of Living Adjustment](#), while also establishing a confidential [hotline for complaints of workplace sexual harassment](#), and [protecting personnel files from disclosure](#) if an employee files a complaint or testifies against an employer for unlawful discriminatory practices.

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## Tracking ARPA Fund Investments

### Boston Evaluating ARPA Options

In mid-April, Boston's Mayor unveiled her [proposed budget and spending plan](#) for the City's \$350 million allocation of funding from the American Rescue Plan Act. Among other things, the Mayor proposes spending from the federal funds \$206 million for affordable housing, \$34 million toward economic opportunity and inclusion, \$32 million for climate resiliency, \$20 million to support arts and culture, and \$15 million for early education and child care. In the [public notice for an upcoming hearing](#), the Boston City Council has indicated its intention to use the ARPA money to make "once-in-a-generation, transformative investments that address the systemic health and economic challenges in the areas of affordable housing, economic opportunity and inclusion, behavioral health, climate and mobility, arts and culture and early childhood." The City Council invited the nonprofit community to present its concerns and priorities during a public hearing, scheduled for May 3. Those invited to testify include leaders from **Massachusetts Nonprofit Network**, **Providers' Council**, and **TSNE** (Third Sector New England), as well as the National Council of Nonprofits. See [Boston's American Rescue Plan](#) and the City's [Dashboard of American Rescue Plan Act Projects](#).

### Keeping Track of ARPA Funding

**Local:** [Local Government ARPA Investment Tracker](#), Brookings Institute, Feb. 3, 2022

**State:** [ARPA State Fiscal Recovery Fund Allocations](#), National Conference of State Legislatures, updated Apr. 18, 2022.

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

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## ***Worth Quoting***

- "Our message today – and every day – is that charitable nonprofits in Boston are grounded in the community, as they are in every city, town, and rural area in Massachusetts and throughout the country. Each of the funding focus areas identified in the public notice is an area in which charitable nonprofits have deep insights into community needs, command strong programmatic expertise, and are proven partners with governments to secure real and lasting impact.... The greatest return on those investments will almost certainly be through partnerships with local charitable nonprofits."

— from [written statement of David L. Thompson](#), National Council of Nonprofits, before the Boston City Council, scheduled for May 3, 2022.

- "Over the past two years many nonprofits faced exploding demand, a decimated volunteer force, and had to make quick (and often expensive) operational and safety changes during the pandemic. It's time to recognize the extraordinarily vital role these partners have played."

— Jonathan Weinhagen, CEO of the Minneapolis Regional Chamber, the largest local chamber in Minnesota, writing in [Investing in our nonprofits strengthens us all](#), *MinnPost*, Apr. 21, 2022. He added, "Utilizing a portion of the federal funds that have come to Minnesota to support our nonprofit partners is a smart investment that will benefit us all. On behalf of our region's business community, I encourage the legislature to step up to support our critical nonprofits."

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## **Worth Studying**

- [Understanding ARP Recovery Plan Performance Reports](#), Results for America, updated regularly, assessing more than 200 publicly available reports identifying how governments plan to spend Coronavirus State and Local Fiscal Recovery Funds (CSLFRF).
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## **Worth Reading**

- [Much of Maine's \\$191M Pandemic Relief Funds Still Unspent](#), Peter McGuire, *Portland Press Herald*, Apr. 18, 2022.
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## **Trend Spotting**

# **Houses of Worship Losing Property Tax Exemptions**

Administrative boards and courts across the country are re-evaluating whether property owned by religious organizations and houses of worship qualify for property tax exemption. The City of Fredericksburg, **Virginia** [denied a property tax exemption for church property](#) under state law because the exemption applied only “to the residence of the minister.” However, the property, occupied by the church’s youth ministers, was the only property the church claimed. The City denied the exemption [based on the youth ministers’ titles and ordination status](#) after extensive review of the church’s practices. The church [appealed all the way to the U.S. Supreme Court](#), which denied review of the case. Justice Gorsuch [dissented from the denial](#) stating, “The First Amendment does not permit bureaucrats or judges to subject religious views to verification.”

Churches in [Indiana](#) and [Michigan](#) both had property tax exemptions revoked in part or in full by tax boards. A church in Gary, Indiana, applied for a tax exemption for a parcel that included a church building and an unoccupied parsonage house that accounted for 14% of the overall property. An assessor found that only 86% of the property qualified for a tax exemption. In the Michigan case, a church and two individuals co-owned a building being used as a house of worship. The Michigan Tax Tribunal restricted tax exemptions to property owned exclusively by a religious

society, not co-owned with third parties.

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## ***Did You Know?***

Governments spending ARPA funds may make advance payments to nonprofit subrecipients; officials are not required to insist on service first and reimbursement later.

**Source:** [Treasury Final Rule](#), page 4379, footnote 230; [Governments Can Use ARPA Funds to Partner with Nonprofits in Two Broad Ways](#).

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## **Upcoming Events**

- May 5, [Grassroots Lobbying](#), Washington Nonprofits
- May 9, [ARPA Advocacy Webinar](#), Florida Nonprofit Alliance
- May 12, [Public Policy Call](#), Florida Nonprofit Alliance
- May 18-20, [Washington State Nonprofit Conference](#), Washington Nonprofits

## **Advocacy in Action**

### **In Praise of Nonpartisan Electioneering**

Charitable nonprofits are famously and appropriately barred from engaging in partisan, election related activities thanks to the longstanding [Johnson Amendment](#). But that doesn't mean 501(c)(3) organizations are forced to sit on the sidelines and watch silently as candidates for public office and their supporters seek to define and distort the issues of the day for their own personal and party ambitions. While scrupulously maintaining nonpartisanship, charitable organizations have the opportunity and duty to stand up as *nonpartisan* advocates for truth, their missions, and the wellbeing of their communities.

The activities of several state associations of nonprofits demonstrate not just advocacy in action, but democracy in action as they work to enlighten candidates, inform voters, inspire voting, educate other nonprofits, and engage in many other

*nonpartisan* activities. None are waiting for the elections in November; full engagement has already started.

[Read More](#)