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Federal

Productivity of Lame Duck Session In Doubt

Before adjourning the 118th Congress, federal lawmakers should be resolving several “must pass” bills, such as funding the government past a December 20 deadline, authorizing defense spending, renewing the Farm Bill, and addressing recent natural disasters. Only the latter item, passing a disaster relief bill, appears to be receiving serious consideration. Today, the head of the Office of Management and Budget laid out the [Biden Administration’s case for “critical disaster relief,”](#) promising more details in the coming days. The [National Council of Nonprofits joins this call](#) and urges the inclusion of giving incentives, plus employer and volunteer tax relief. On the remaining items, Congress appears likely to “kick the can down the road” by passing a 90-day (or so) extension of the continuing resolution that funds the federal government and a one-year continuation of the Farm Bill.

Judge Strikes Down DOL Overtime Rule



Late last week, a [federal district judge in Texas invalidated](#) the [Labor Department's overtime rule](#) that sought to raise the minimum salary level that white collar employees must be paid to remain exempt from overtime pay. The ruling applies both to the higher salary level test that went into effect this past July 1 and blocks the next change set for January 1, 2025, essentially returning the pay requirements to the 2019 level of \$35,568 per year (\$684 per week). The decision also invalidates the automatic increases scheduled to take effect in the future.

In striking down the rule, the judge found that the Labor Department's "2024 Rule plainly exceeds its authority under the [Fair Labor Standards Act]." The judge essentially relied on the same basis as a different Texas federal judge who invalidated the Obama Era overtime rule in 2016. In both cases, the judges found that the high salary level test imposed by the rule effectively rendered moot the job duties tests that are the basis of the overtime exemption for executive, management, and administrative employees. While the U.S. Department of Labor can appeal the decision, it is likely that the incoming Trump Administration will do what it did back in 2017 – withdraw the appeal and allow the new decision to be the final word on the issue. The Trump DOL could start rulemaking to revise the overtime rule again, but that's not an early priority.

- **Ruling:** [Memorandum Opinion and Order](#), *State of Texas v. DOL*, E.D. Tex., No. 24-00499, Nov. 15, 2024.
- [Texas Judge Tosses Biden Overtime Expansion for Millions](#), Rebecca Rainey, *Bloomberg Law*, Nov. 15, 2024.
- [Texas Court Strikes Down Federal Overtime Rule \(Again\)](#), Allan S. Bloom and P. Kramer Rice, *National Review*, Nov. 17, 2024.

Tax Debate Essential Reading

Proposals Likely to Get Serious Consideration

Each edition of ***Nonprofit Champion*** this fall has identified specific tax policy proposals of importance to the charitable nonprofit sector and the work of organizations in communities. Read the complete series: [Tax Policy Proposals of the National Council of Nonprofits](#). In this and coming editions, readers will see highlights of articles that provide context for the coming tax debate or identify proposals that could be adverse to the wellbeing and interests of charitable organizations.

- [Questions About Tax Cuts, Tariffs, and Reconciliation After the Election](#), Willam McBride, Erica York, Garrett Watson, Tax Foundation, Nov. 13, 2024. The authors provide an excellent summary on the Trump tax changes proposed during the campaign, and what's likely to be extended as the 2017 tax law expires, plus a good description of the budget reconciliation process that could enable the majority party to enact reforms without Democratic votes. See also, [Reining in America's \\$3.3 Trillion Tax-Exempt Economy](#), Scott Hodge, Tax Foundation, June 18, 2024.
 - [JD Vance is right: Reduce the power of big foundations to help charity](#), Howard Husock, *The Hill*, Nov. 15, 2025. The writer calls for paying for the cost of a non-itemizer deduction by increasing the excise tax on some or all private foundations.
 - [Five Tax Loopholes for Mike Johnson's Chopping Block](#), George Callas, *Wall Street Journal*, Nov. 20, 2023. The former Chief Tax Counsel in the House recommends imposing excise taxes and levying taxes on more business activities of hospitals and higher education institutions, among other things.
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Federal ***FastView***

- **Standing Up for Due Process:** This week, the House is expected to once again consider the Stop Terror-Financing and Tax Penalties on American Hostages Act ([H.R. 9495](#)), which targets relief for hostages of terrorism while ostensibly strengthening tools to curb terrorism financing. Four national organizations - the Council on Foundations, Independent Sector, National Council of Nonprofits, and United Philanthropy Forum - [sent a letter to the House](#) expressing opposition to the portion of the bill that would give the Treasury Secretary nearly unfettered power to revoke the tax-exempt status of charitable nonprofits that the Secretary alleges supports terrorist activities. The

letter expresses concern that the legislation would impose “redundancies and confusion while providing the executive branch with expansive new authority that could be abused.” The [ACLU and many other organizations](#) have lined up in strong opposition as well. A version of the bill passed earlier this year but failed on a procedural vote last week.

- **DAF Data Update:** Grants coming from Donor Advised Funds (DAFs) declined slightly to \$54.77 billion in 2023, down from a record high of \$55.53 billion in 2022, according to [The 2024 DAF Report](#) from the National Philanthropic Trust. The report, which uses data from over 1,100 charitable organizations that sponsored DAFs in 2023, also reveals that the DAF payout rates remained above 20 percent, with the average payout rate reaching 23.9 percent in 2023, only slightly lower than the 24.1 percent in 2022.
- **Changes to the American Community Survey:** In preparing to implement [Statistical Policy Directive No. 15](#), the updated standards to maintain, collect, and present data on race and ethnicity at the federal level, the U.S. Census Bureau released its [plan for the American Community Survey](#) (ACS). The first ACS 1-year estimates will be released in September 2028, while the first 5-year estimates are expected to be released in December 2032.

The 2024 Elections

Nonprofit Perspective

Comparing Congressional Leaders



Senator John Thune

Last week, Republican Members of Congress elected their leaders for the 119th Congress that begins on January 3, 2025. Both Speaker Mike Johnson (R-LA) and incoming Senate Majority Leader Thune (R-SD) are committed to advancing President-Elect Trump's agenda. A clear difference emerges, however, in their focus on two policy issues of interest to the charitable community. Senator Thune has been the sponsor or lead cosponsor of several bills to improve nonprofit laws. Most recently, he stressed his support publicly and privately for creating a [non-itemizer deduction](#) during the 2025 tax reforms as a solution to the negative impact on giving that was caused when Congress doubled the standard deduction in 2017.



Speaker Mike Johnson

Speaker Johnson, on the other hand, has a long history of opposing the 1954 law on [nonprofit nonpartisanship](#), sometimes called the “Johnson Amendment” (named after then-Senator Lyndon Johnson) that protects charitable organizations from demands from politicians and funders to endorse candidates for public office. Prior to serving in Congress, Speaker Johnson was a litigator for the outside group seeking to upend the longstanding law. Once elected, he was the original sponsor of legislation to create harmful loopholes in the law on nonpartisanship that reemerged during the 2017 tax debate.

Post-Election Message to Nonprofits:

Our Work and Missions Haven't Changed

Nonprofit professionals have responded to the results of the 2024 elections with emotions across the spectrum from delight to outrage. State associations of nonprofits have risen to the moment with timely messages of reassurance to their members and nonprofit communities, calling on charitable organizations to continue

to demonstrate unity and nonpartisanship. Messages from the [Minnesota Council of Nonprofits](#), [North Carolina Center for Nonprofits](#), and [Utah Nonprofits Association](#) center what matters most: the missions of nonprofits, the people they serve, and the collective strength when nonprofits work together. In a nutshell, nonprofits are reminded:

1. To stay focused on their missions and remain nonpartisan
 2. Advocacy and civic engagement are tools we can use to advance missions
 3. When we work together, the nonprofit community can be a collective force for good
 4. Focus on the wellbeing of staff showing gratitude for their tireless work
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Worth Reading

- [How Nonprofits Can Navigate Political Engagement and Maintain Public Trust](#), Hana Takagi, *Nonprofit Quarterly*, Nov. 12, 2024.
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Worth Watching (or Watching Again)

Remote video URL

- [Impact of the Elections on Charitable Nonprofits](#) (59:04), National Council of Nonprofits, Nov. 12, 2024. In this webinar, experts recapped the election results, identified challenges and opportunities during the lame-duck session of Congress and the transition period, and identified key issues of interests for charitable organizations early in the 119th Congress.

State and Local

How Ballot Measures Fared This Election Season

Voters across the country considered more than [150 statewide ballot measures in 42 states](#); the outcomes were mostly expected.

- **Employment:** Voters in **Alaska** and **Missouri** approved measures to increase the minimum wage to \$15 per hour. Both measures, as well as one in

Nebraska, require employers to provide earned paid sick leave. As of this writing, **California** voters appear to have narrowly rejected a proposal to raise their state minimum wage to \$18 per hour.

- **School Choice:** Measures for [school choice failed](#) in **Colorado**, **Kentucky**, and **Nebraska**.
 - **Social Issues:** Voters in seven states passed [measures to protect abortion](#) while voters in **Florida**, **Nebraska**, and **South Dakota** voters rejected their measures. A proposal in **New York** to prohibit discrimination based on pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy passed. Same sex marriage is now enshrined in the state constitutions of **California**, **Colorado**, **Hawaii**, and **Maryland**.
 - **Voting and Elections:** Eight states approved constitutional amendments banning noncitizens from voting. Only the **District of Columbia** approved ranked choice voting or changes to how primaries and elections run out of a possible nine jurisdictions. Voters in **Alaska** are set to repeal ranked choice voting after only four years. Measures in **Arizona**, **Colorado**, and **North Dakota** affecting the process for citizen initiatives failed. The **Connecticut** State Legislature is now authorized to pass a law for no-excuse absentee voting in the state. Campaign contributions by individuals in [Maine](#) are now limited to \$5,000.
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State and Local Fiscal Recovery Funds

Time is Running Out for Nonprofits to Access Funds

State and local governments have until December 31, 2024, to obligate any remaining [State and Local Fiscal Recovery Funds](#) (SLFRF) allocated to them under the American Rescue Plan Act. With only 43 days to go, governments continue to establish partnerships with charitable nonprofits to advance recovery from the pandemic. Charitable nonprofits should continue to advocate for these remaining funds by contacting their local offices to make the case for their mission. Study the following and [other successful examples](#) for inspiration:

- St. Paul, **Minnesota**, partnered with a local nonprofit to erase \$40 million in [medical debt](#) for approximately 32,000 people. The city identified eligible households by calculating whether the debt was equal to or greater than five

percent of their income, or if they earned no more than four times the federal poverty level.

- The Portsmouth, **New Hampshire**, City Council [followed up](#) on its 2022 Community Health Needs Assessment and Community Health Improvement Plan, which found that human services nonprofits “suffered significant revenue losses” during the beginning of the COVID-19 pandemic while “simultaneously having to expand the scope of their services to cover gaps that had not existed prior to the pandemic.” Human services nonprofits have until November 27, 2024, to [apply for funding](#) under the city’s SLFRF spending plan; award amounts will depend on the number of applications submitted. The city council will also hold a hearing on November 18 to determine whether they will add \$100,000 to the \$250,000 already budgeted.
- Williamson County, **Texas**, commissioners [approved funding](#) for two local nonprofits that will go towards capital improvement projects. They will each receive \$95,000 to support their expansion and continue providing services in the community.

Read the latest data and examples of [how nonprofits are accessing SLFRF dollars](#). Go to [Accessing State and Local Fiscal Recovery Funds](#) to learn more and get started.

Worth Quoting

On State and Local Fiscal Recovery Funds

- “...the way to distribute these funds in a meaningful manner to get into the hands of the nonprofits filling the gaps in services for our vulnerable populations identified in our Community Health Needs Assessment, is to provide these nonprofits with funds directly as beneficiaries. They suffered economic harm due to COVID-19 and were unable to fully meet the needs of the vulnerable populations they serve. They know their clients and needs best, and they are already doing the work to fill these gaps and provide significantly changed services since COVID.”

— Portsmouth, **New Hampshire**, City Manager Karen Conard quoted in [City Invited Human Services Nonprofits Applications for ARPA Funds to Implement Community Health Improvement Plan Recommendations](#), City of Portsmouth, Nov. 8, 2024.

On government grants and contracting reform

- “When nonprofits can’t pay their staff or vendors, services are scaled back or delayed, leaving vulnerable populations without the support they need. The entire community suffers when nonprofits are forced to divert resources away from service delivery to cover interest payments on loans that they never should have needed in the first place.”

— New York City Council Members Justin Brannan and Althea Stevens, writing in [Nonprofits keep New York running, but the city’s pushing them off a cliff](#), *NYN Media*, Nov. 14, 2024.

Numbers in the News

7.45%

The share of taxpayers claiming the charitable contribution deduction on their federal income tax returns, down from about 30% before enactment of the 2017 tax law.

Source: [Statistics of Income Division, Publication 1304](#), Internal Revenue Service, October 2024.

- 3.9%

The decline in the number of donors in the second quarter of 2024, continuing the troubling and long-running trend of fewer people giving to the work of charitable organizations.

Source: [Continued Consolidation in Q2 2024 as the Sector Sees More Dollars from Fewer Donors](#), Fundraising Effectiveness Project, Association of Fundraising Professionals, Oct. 30, 2024.

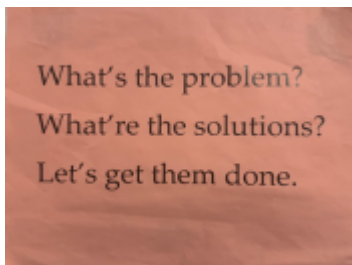
Nonprofit Events

- Nov. 20, [Advocacy in Action](#), Foraker Group (Alaska)
- Nov. 20, [Annual Policy Conference 2024](#), CalNonprofits

- Nov. 20, [Civic & Community Engagement Summit](#), Michigan Nonprofit Association
- Nov. 20, [Nonprofit Advocacy Issues Forum](#), Together SC
- Nov. 20, [Shaping the Future: TNN's 2025 Public Policy Agenda](#), Tennessee Nonprofit Network
- Nov. 21, [Talk Story With Hawaii's Congressional Delegation](#), Hawai'i Alliance of Nonprofit Organizations
- Nov. 21, [Advocacy Hour](#), Nonprofit Association of Washington
- Dec. 4, [2024 NJ Nonprofits Conference](#), New Jersey Center for Nonprofits
- Dec. 5, [Nonprofit Policy Caucus](#), New Hampshire Center for Nonprofits

Advocacy in Action

Getting It Done



A mantra posted on the walls of several offices at the National Council of Nonprofits reads: “What’s the problem? What’re the solutions? Let’s get them done.” Our colleagues at the **North Carolina Center for Nonprofits** are living that mantra in the aftermath of Hurricane Helene. Their actions are a quintessential lesson in Advocacy in Action!

[Read the full article](#)

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