

# Nonprofit Advocacy After The Omnibus Act

03.23.22 | Linda J. Rosenthal, JD



It's been about two weeks since the U.S. Congress passed the Consolidated Appropriations Act, 2022. See [New Spending Act Falls Short Of Nonprofits' Needs](#) (March 16, 2022).

The National Council of Nonprofits (NCN), which took the lead for our sector in advocating for critical financial relief – see #Relief4Charities – posted initial reaction on March 10th, the day that the Senate added its approval to the House's the evening before. See NCN Press Release: [#Relief4Charities Coalition Expresses Disappointment, Calls on Congress to Provide Further Relief and Address Workforce Shortage](#).

There was a separate and previously scheduled Senate Finance Committee hearing on March 17, 2022, on [Examining Charitable Giving and Trends in the Nonprofit Sector](#) ([link to still-available full hearing](#)). It focused primarily but not exclusively on the matter of extending the (now-expired) expansion of the charitable deduction to non-itemizers. This was a key point of advocacy by the nonprofit sector which was omitted from the Omnibus spending act. The National Council of Nonprofits submitted a separate written statement ([link](#)). Any other individuals or organizations are invited to send written comments to the Committee before the two-week deadline.

## ***Omnibus Reactions***

In mid-March, facing yet another deadline and threat of a full government shutdown, Congress acted in the nick of time to fund the federal budget for the remainder of Fiscal Year 2022 ending on September 30th.

The “[lawmakers managed to cobble together a compromise](#) with significant bipartisan support in both chambers and a total price tag of \$1.5 trillion. This achievement capped off “[months of bruising negotiations](#) and partisan fights over how to fund the government through” the remaining seven months of FY 2022.

The good news is that it happened at all. The better news is that the measure was passed with wide bipartisan support in both chambers. The bad news is that it's a compromise so no one is particularly satisfied. In addition, the over 2,000-page text was not presented to lawmakers until Wednesday morning, March 9th, for a House vote that evening and a Senate vote the next day. So the Representatives and Senators were likely a bit fuzzy on what's in the new law and what's out.

In its biweekly newsletter "Nonprofit Advocacy Updates" on March 21, 2021, the National Council of Nonprofits noted that the Omnibus act appropriates \$730 billion in domestic funding, which is a 7% increase over last year. There is also a 6% defense budget increase, more than 4,000 Congressional earmarks, and an urgently needed \$14 billion in Ukraine aid.

Originally, the legislative compromise package included over \$15 billion for additional COVID-19 vaccines, testing, and medicine specifically requested by the Administration. But the bargaining terms from the GOP were too steep for House members who removed the entire appropriation (for now; it can be passed separately through reconciliation) instead of caving to Republican demands that it be paid for by "clawing back" (rescinding) some of last year's American Rescue Plan funds allocated to the states.

There have been threats for some time to retrieve about \$7 billion in unspent State and Local Fiscal Recovery Funds under the ARP. But that would be a devastating loss. We've explained in earlier posts that the ARP funds sent to the states and local governments in 2021 have been critical to recovery efforts. Any lag in spending all of the total allocation has been as much to do with the understandable inability of these government entities to quickly enough "scale up" their operations to take full advantage of these windfalls. See for example: *Suddenly, It's Raining Grant Money* (August 17, 2021).

### ***Senate Hearing***

The Senate Finance Committee hearing on March 17, 2021, was different than most of the contentious and snooze-inducing sessions occurring each day that Congress is in session. It was highly anticipated and closely watched; indeed, there was a flurry of live-blogging on Twitter from leading nonprofit law professors around the nation.

"Senators from both parties spoke to the many ways that nonprofits benefit communities and expressed their general support for tax policy solutions that would provide pandemic and workforce shortage relief to nonprofits," according to a summary by the National Council of Nonprofits in its March 21st newsletter. "Opening the hearing, Chair Wyden (D-OR) repeated his mantra, "the charitable deduction is a lifeline, not a loophole," and called for restoring and increasing the universal charitable deduction above the previous level of \$300/individuals and \$600/couples. He also expressed support for the Employee Retention Tax Credit and the WORK NOW Act. Sen. Lankford (R-OK), serving as the acting Ranking Member, devoted his opening statement to promoting the Universal Giving Pandemic Response and Recovery Act (S. 618)."

"The panel of four witnesses focused mostly on charitable giving, plus shared some of the challenges nonprofits have faced during the pandemic," the NCN summary continued. "All agreed that more giving is required to address current and future needs. The witnesses also gave testimony in support of restoration of the Employee Retention Tax Credit (ERTC), the need to reinstate the

100% AGI Cap for charitable giving, and an increase in the volunteer mileage rate, among other things.”

In advance of the hearing, the National Council of Nonprofits was among those that submitted extensive written testimony. See [formal Statement](#), highlighting “a range of significant pandemic-related operational challenges charitable nonprofits continue to experience” and “why Congress urgently needs to enact pandemic and workforce shortage relief for charitable nonprofits.”

It also “identifies [seven specific tax-policy solutions](#) to those challenges, including restoring and improving expired charitable giving incentives, reinstating and expanding the Employee Retention Tax Credit, and increasing the Volunteer Mileage Rate (still frozen at the 14-cents per mile standard set 25 years ago) to match the current business mileage rate (now \$1.58 per mile).”

To underscore the broad public support for these proposals, NCN attached an updated (as of March 14, 2021 from mid-February) version of its [Nonprofit Community Letter on the Pandemic and Workforce Shortage Relief for Charitable Nonprofits](#).” The signature total had grown (as of the date of the SFC testimony submission) from some 1,300 organizations to over 1,500 nonprofit organizations, small and large, from all 50 states and the District of Columbia.

The National Council of Nonprofits continues to urge as many nonprofits as possible to add their support to this letter and to share it on social media.

Another important opportunity to bring attention to these matters is to take up the invitation of the Senate Finance Committee “to any individual or organization wanting to present their views for inclusion in the hearing record” to submit written comments.” Instructions for the format and how to submit the document are included on the SFC website [here](#). This testimony “must be received no later than two weeks following the conclusion of the hearing.”

### ***Conclusion***

NCN reports this week that “nonprofit advocates are eying [at least three legislative vehicles](#) for inclusion of nonprofit policy solutions to address challenges to charitable giving, critical nonprofit workforce shortages, and the decline in volunteerism,…”

One possibility is a supplementary COVID-relief funding bill. It “has already [attracted attention](#).” A coalition of the nation’s small businesses is lobbying for reinstatement of certain (now-expired) valuable relief measures from 2021, including PPP and the Shuttered Venues program, each of which provided relief for nonprofits along with small for-profit entities.

NCN also says that “separately, there appear to be early negotiations over reviving some parts of the President’s Build Back Better agenda and passing them on a Democrats-only budget reconciliation bill.”

There is also the “usual discussion of a year-end tax bill that could retroactively restore expired tax provisions,” but the delay would be less than ideal.

“With substantial advocacy,” NCN asserts, “nonprofit priorities could be attached to any one of these bills.

– Linda J. Rosenthal, J.D., FPLG Information & Research Director