

# League of American Orchestras

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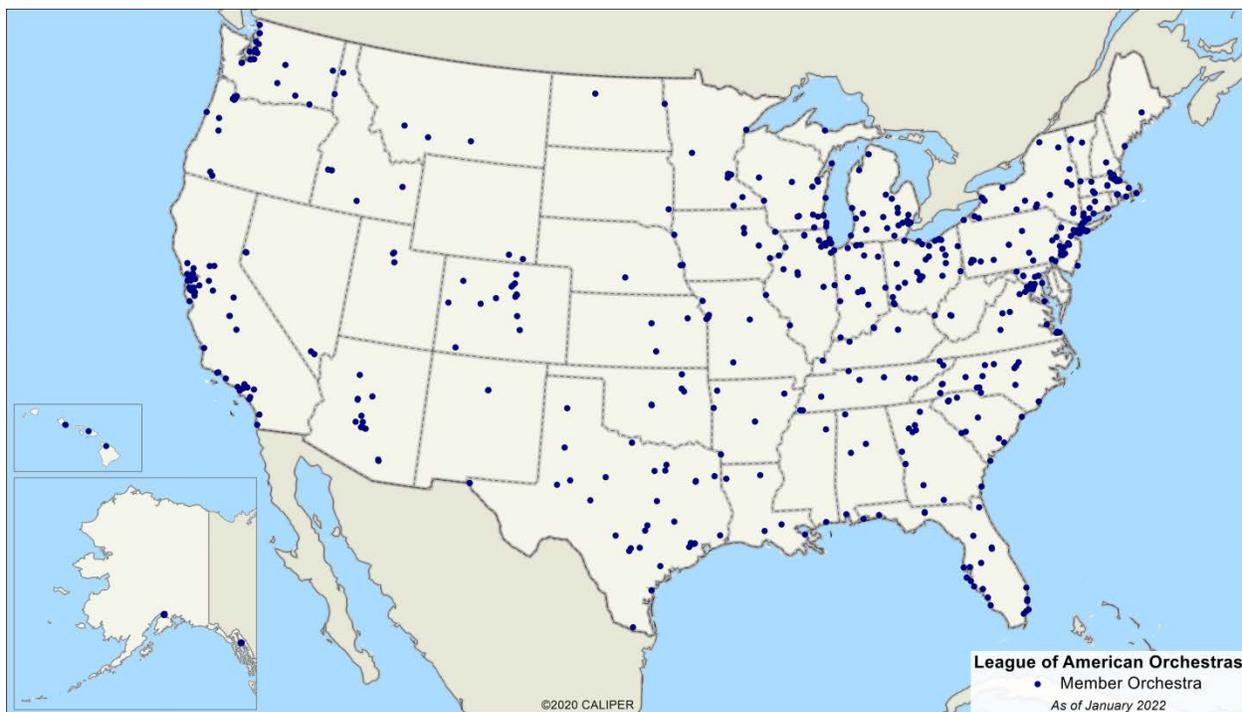
## **“Examining Charitable Giving and Trends in the Nonprofit Sector”**

**March 17, 2022**

### **Written Statement to the United States Senate Committee on Finance**

The League of American Orchestras thanks the Senate Committee on Finance for holding a hearing dedicated to “Examining Charitable Giving and Trends in the Nonprofit Sector.” Given the prolonged duration of the COVID-19 pandemic and its impact on the nonprofit sector, the Committee’s hearing is a particularly important opportunity to commit to federal policy action that will respond to the unique and urgent needs of America’s nonprofit sector. The League of American Orchestras leads, supports, and champions America’s orchestras and the vitality of the music they perform. Its diverse membership runs the gamut from world-renowned orchestras to community groups, from summer festivals to student and youth ensembles, from conservatories to libraries, from businesses serving orchestras to individual participants in symphonic music. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners.

**Orchestras deliver on their nonprofit mission in communities nationwide through their vibrant artistry, community partnerships, and commitment to lifelong learning through music.** Like thousands of other nonprofits in the arts, education, and human services, and other local organizations, the more than 1,600 American orchestras in communities across the United States are classified as 501(c)(3) tax-exempt organizations. This exemption and the incentive to give private donations are essential to sustaining the capacity of orchestras as employers, community partners, artistic innovators, and providers of lifelong learning. Even as orchestras faced unprecedented challenges throughout the course of the pandemic, their resilience and creativity are evidenced in their ongoing contributions to their communities and innovative strategies to deliver on their nonprofit mission under the most extraordinary circumstances. At the height of COVID-19 restrictions on participation in live performance events, orchestras innovated to provide safe live arts experiences, online performances, and learning opportunities nationwide. Entering the 2020-21 season, orchestras participating in a survey indicated that digital orchestra music was being delivered to at-home audiences in the form of live-streamed concerts (81%), streaming of archival recordings (41%), and new creative content curated specifically for social media (59%) — much of it free of charge (64%). Orchestras continue to offer both live performance events and online offerings, often partnering with caregivers, schools, and community-based organizations to reach in-person and online audiences.



**Orchestras are part of the wider nonprofit economic engine that supports workforces and community revitalization amid COVID-19 recovery.** Orchestra expenses totaled more than \$2.1 billion in 2019. Their economic impact far exceeds that amount as orchestras create jobs, engage in commerce with local businesses, and spur local expenditures on related goods and services. Orchestras support a substantial workforce in communities across the country, engaging a large ensemble of 80 or more musicians for concerts, supported by a creative workforce of composers, administrative staff, stage technicians, ushers, and other professionals. America’s adult and youth orchestras employ a dynamic team of teaching artists, community engagement professionals, and expert program staff that deliver lifelong learning through music.

**As part of the nonprofit charitable sector, orchestras depend upon private philanthropy and civic support to fuel programs that serve community needs.** Orchestras are 501(c)(3) nonprofit organizations, exist in all 50 states, serving virtually every community, with annual budgets ranging from less than \$30,000 to more than \$100 million. Two thirds of all orchestras have budgets under \$300,000. The artistic presentations, educational offerings, and community-based programming generated by the orchestra workforce is supported by a critical combination of public and private support, and not by ticket sales alone. Support from donors across the economic spectrum is essential to making this work possible, as orchestras respond to the needs of communities and form partnerships through education, artistic, economic development, and social service programs. When examining giving to orchestras by individual donors who are not trustees, there is evidence of a broad base of community support for the orchestras' work; each year from 2010 through 2014, roughly 75% of the gifts made by non-trustee individuals were under \$250, including 45% under \$100, and 30% in the \$100-\$249 range. Community members

with a wide range of economic means find value in their local orchestras and invest in their sustainability.

**The COVID-19 pandemic has made charitable giving even more essential.** Prior to the onset of the pandemic, private giving accounted for 43% of orchestra revenues. Like for-profit businesses, orchestras suffered severe earned revenue losses that threatened their workforces and their missions. By the summer of 2020 – even before the full force of the pandemic was felt – orchestras responding to a League survey reported that private giving accounted for 51% of the revenues that support the orchestras’ workforces and mission. While decisions about operations during the pandemic have been closely connected to local and state public health mandates and each orchestra’s individual financial situation continues to vary based on the return to live in-person performances, very many continue to suffer significant pandemic-related revenue losses. As infection rates fell on the retreat of the Delta variant, orchestras began to make gains in ticket sales, which provided hope for recovery in the longer term. However, the return of audiences from week to week was uneven, and the onset of the Omicron variant has had a severe and long-reaching impact on orchestras’ financial capacity and workforce. Orchestras recently surveyed by the League are projecting ongoing revenue declines and increasing costs. When asked to look ahead to their potential organizational capacity for their fiscal year 2023 operations, only 35% were confident or very confident that philanthropy would sustain at its current level and only 32% were confident or very confident that ticket revenue would recover to its 2019 level.

**We urge the Committee to partner with the nonprofit sector to ensure that any future pandemic-related or long-term support for the small business sector is structured so that nonprofit organizations are assured eligibility.** Careful attention by Congress to nonprofit eligibility for COVID relief was essential to unlocking access to relief for orchestras and other nonprofit organizations. Federal support has made it possible to keep doors open, utility bills paid, and many workers on payroll, but the duration of the pandemic continues to strain all revenue sources and new and renewed federal assistance is needed. We are extremely grateful for the federal support to-date that has provided essential assistance during such an unprecedented and prolonged public health crisis. Of orchestras responding to a recent League of American Orchestras survey, 92% reported that federal relief had a significant or very significant impact on their ability to maintain their performance and other program activity, and 90% reported that these funds had a significant or very significant impact on their ability to retain their workforce. In addition to Shuttered Venue Operators Grants and dedicated National Endowment for the Arts funding, nonprofit access to forgivable Paycheck Protection Program loans, Employee Retention Tax Credits, enhanced charitable giving incentives, and other forms governmental assistance have helped to see orchestras through the first two years of the pandemic. However, most forms of federal relief expired at the end of 2021, and the need for help persists.

**Orchestras and the wider nonprofit sector will be essential contributors to our nation’s recovery from the pandemic and must be supported by federal policies that restore and**

**further strengthen the sector nationwide.** The League of American Orchestras is closely partnered with the National Council of Nonprofits, Independent Sector, and the Charitable Giving Coalition in support of comprehensive policy action to increase support for the nation's charitable sector, and we support the written recommendations submitted to this committee by those organizations. We urge the Committee to lead Congressional action on policies that are urgently needed, and to seek partnership with the nonprofit sector to ensure that long-term federal leadership proactively supports our nation's charitable and philanthropic sectors.

This Committee can support the following action on active proposals related to tax policy and the nonprofit sector:

- Increase charitable giving by reinstating and making permanent the above-the-line, universal charitable deduction. Federal COVID-19 Relief recognized how important giving incentives are by including in the CARES Act a \$300 “universal charitable deduction” available to all taxpayers and extending that provision in the COVID-19 Economic Relief Bill along with allowing up to a \$600 deduction for joint filers in 2021. Expanding and making this provision permanent will grow the capacity of the nonprofit arts sector to support communities. While the initial impulse to give comes from the heart, studies have repeatedly shown that charitable giving incentives have a significant impact on how much and when donors contribute.
- Reinstating the ability for individuals who itemize on their taxes to deduct up to 100% of their adjusted gross income for charitable contributions, and the ability of corporations to deduct up to 25% of taxable income.
- Enact the Legacy IRA Act, which would expand the Charitable IRA Rollover to treat donations made by retirees to gift annuity programs as pre-tax income.
- Reinstating the Employee Retention Tax Credit for the fourth quarter of 2021 and extend its duration, modifying nonprofit eligibility beyond the current “gross receipts” test. Orchestras are among the many nonprofit employers that have been counting on quarter four 2021 access to the ERTC to support the decisions they made to bring employees back on the payroll and increase operating capacity to serve their communities.
- Enact the Artist-Museum Partnership Act, which would encourage new gifts by living composers and conductors, including original manuscripts, marked scores, and performance notes. For composers and conductors considering whether to contribute their works and archives to a charitable organization or to make them available to private collectors, the ability to take a fair-market value tax deduction may be the key incentive that allows the artist to contribute their work to a nonprofit cultural organization.
- Enact the Performing Artist Tax Parity Act of 2021, which would reinstate deductions for unreimbursed employee business expenses. Across occupations, comprehensive tax

reform passed into law in 2017 eliminated the opportunity to deduct unreimbursed employee business expenses that exceed 2% of adjusted gross income. For musicians who are employees, this means that the costs of supplies, instruments, professional dues, and other expenses essential to employment are no longer tax-deductible.

- Support dedicated relief resources for nonprofit organizations and their workforce, as proposed in the WORK Now Act.

On behalf of the 1,200 nonprofit orchestras and 400 nonprofit youth orchestras across the nation, the League of American Orchestras is incredibly grateful for the leadership from this Committee to examine ways that the federal government can support our nation's nonprofit sector. Enhanced federal incentives for charitable giving and leadership to support the strength and growth of nonprofit organizations, will support orchestras' workers, operating costs, and mission-critical activity. Thank you for this opportunity to share ways in which this Committee and the broader federal government can increase support for the nonprofit sector.