



June 12, 2018

The Honorable Rodney P. Frelinghuysen  
Chairman  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

The Honorable Nita M. Lowey  
Ranking Member  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

**RE: Section 112 of the FSGG Appropriations bill for FY 2019**

Dear Chairman Frelinghuysen and Ranking Member Lowey,

The National Council of Nonprofits – the largest network of charitable nonprofits in the country – is very concerned that the Financial Services and General Government fiscal year 2019 appropriations bill ignores the wishes and best interests of our nation’s charities, houses of worship, and foundations by including a harmful, constitutionally suspect, and extraneous rider. We object to the inclusion of Section 112 in the bill and urge its removal during Committee deliberations on June 13.

Longstanding current law, sometimes called the “Johnson Amendment,” protects the integrity and independence of the entire 501(c)(3) community by shielding organizations from the rancor of partisan politics. Section 112 of the FSGG appropriations bill would take away that decades-old, ironclad protection for houses of worship, potentially subjecting tens of thousands of congregations to overzealous solicitations from politicians, paid consultants, and donors.

Section 112, like Section 116 in the FSGG bill for FY 2018, would, if enacted, make it virtually impossible for the IRS to enforce existing law against a church, synagogue, or mosque for even the most egregious violations, such as diverting charitable contributions that have been deducted as gifts for the church and funneling those funds to partisan political campaigns. The rider would prevent the IRS from spending any funds to make a final determination that a house of worship or its affiliate has violated the Johnson Amendment unless the IRS meets three conditions: (1) the IRS Commissioner personally consents to a determination of unlawful conduct (something that cannot be done unless funds are expended prior to the determination to investigate allegations of unlawful conduct), (2) the House and Senate tax committees are given 30-days’ notice of the law-enforcement determination, and (3) an additional 90-days’ notice is provided before actual enforcement can commence. The provision contains several fatal flaws. Notably, Section 112 offers no such restrictions on enforcement against secular organizations, creating a framework that explicitly encourages selective enforcement of the law. The rider would erect unconstitutional and unreasonable hurdles on enforcing the law that ensures nonpartisanship.

The facts about the Johnson Amendment are not in dispute, even though proponents of this rider consistently veer from fact and law in order to paint a picture of abuse that is sheer fantasy. Except for the protestations of an extreme minority, the Johnson Amendment is not and has never been controversial. It was introduced during the 1954 tax reform debate by Senate Minority Leader Johnson (D-TX), accepted by the Senate Majority Leader without dispute, passed by the Senate and House, and signed by President Eisenhower. The identical language was included – again, without controversy or dispute – in the tax reform law of 1986 that President Reagan signed. A year later, this protection for charitable, religious, and philanthropic organizations was strengthened by closing a loophole; that law also was signed by President Reagan.

Section 112 is an extremely controversial rider that is offensive to the vast majority of Americans and charitable nonprofits, houses of worship, foundations, and charities law enforcement officials who firmly believe that 501(c)(3) organizations should remain dedicated solely to the public good and should stay away from base partisan politics. We encourage you to consider the following facts:

- More than [100 national and state religious and denominational organizations](#) signed a letter to Congress stressing: “People of faith do not want partisan political fights infiltrating their houses of worship. Houses of worship are spaces for members of religious communities to come together, not be divided along political lines; faith ought to be a source of connection and community, not division and discord.”
- More than [4,300 religious leaders](#) have signed a letter declaring they are “strongly opposed to any effort to repeal or weaken current law that protects houses of worship from becoming centers of partisan politics,” in part because “issuing endorsements would be highly divisive and have a detrimental impact of congregational unity and civil discourse.”
- [89 percent of evangelical pastors](#) oppose the idea of clergy mixing partisan politics and religion by endorsing candidates from the pulpit, according to a survey conducted in February 2017 by the National Association of Evangelicals.
- Nearly [three out of four American voters](#) (72 percent) want to keep the current rules protecting 501(c)(3) organizations from partisan political activity, according to a poll conducted in March 2017.
- Our nation’s top [charities law enforcement officials](#) call on Congress not to weaken the Johnson Amendment, stressing that, “electioneering is not considered a charitable purpose under common law, and many state charities regulators would consider expenditure of charitable funds on such purposes to be inappropriate, possibly illegal.”
- More than 5,800 charitable, religious, and philanthropic organizations from all 50 states have signed the [Community Letter in Support of Nonprofit Nonpartisanship](#), demonstrating strong opposition to proposals to politicize our community by repealing or weakening the Johnson Amendment, in part because “nonpartisanship is a cornerstone principle that has strengthened the public’s trust” in the charitable community by screening out “doubts and suspicions regarding ulterior partisan motives ... as undoubtedly would occur if even just a few charitable organizations engaged in partisan politics.”

We ask that you take action to remove Section 112 from the FSGG funding bill for fiscal year 2019. As nonprofits across the country do every day, we are prepared to work with Committee members to address the real challenges in our communities; our desire is that we all work together in the charitable nonprofit way – without regard to partisan identity or political campaign activities. We invite you to learn more about the value and background of nonprofit nonpartisanship by going to [www.GiveVoice.org](http://www.GiveVoice.org).

Sincerely,



David L. Thompson  
Vice President of Public Policy

Attachment: **Nonprofit Letter on Section 116 of the FSGG Appropriations Bill**, July 11, 2017.

July 11, 2017

The Honorable Rodney Frelinghuysen  
Chairman  
House Appropriations Committee  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member  
House Appropriations Committee  
Washington, DC 20515

**RE: Section 116 of the FSGG Appropriations Act of 2018  
relating to Johnson Amendment Enforcement**

Dear Chairman Frelinghuysen and Ranking Member Lowey:

The undersigned nonprofit organizations write to express strong objection to the inclusion of Section 116 regarding Johnson Amendment enforcement in the Financial Services and General Government Appropriations Act of 2018 and request that it be removed before the bill is considered by the House of Representatives.

Charitable nonprofits, including houses of worship, and foundations vigorously object to any and all efforts to weaken the provision in tax law that protects them from being polarized and diverted from their proper missions by the manipulative pressures of partisan politics. The provision is Section 501(c)(3)'s third condition for eligibility to receive tax-deductible donations and tax-exempt status: a charitable nonprofit, religious organization, or foundation may "not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." It is sometimes called "[the Johnson Amendment](#)" after then-Minority Leader Lyndon Johnson who proposed the amendment in 1954 that the Republican-controlled Senate adopted without controversy. President Reagan signed an expansion of the protection in 1987.

Current law protects the integrity and independence of the entire 501(c)(3) community by shielding organizations from the rancor of partisan politics. Section 116 of the FSGG appropriations bill would take away that longstanding, ironclad protection for houses of worship, potentially subjecting tens of thousands of congregations to overzealous solicitations from politicians, paid consultants, and donors. The provision, according to [Newsweek](#), "would make it exponentially more difficult to enforce" even the most blatant violations of the Johnson Amendment. The rider would prevent the IRS from spending any funds to make a final determination that a house of worship or its affiliate has violated the Johnson Amendment unless the IRS meets three conditions: (1) the IRS Commissioner personally consents to a determination of unlawful conduct, (2) the House and Senate tax committees are given 30-days' notice of the law-enforcement determination, and (3) an additional 90-days' notice is provided before actual enforcement can commence. Notably, Section 116 offers no such restrictions on enforcement against secular organizations and leaders, creating a framework that explicitly encourages selective enforcement of the law. The rider is fatally flawed in that it would erect unconstitutional and unreasonable hurdles on enforcing the law that ensures nonpartisanship.

## Nonprofit Letter on Section 116 of the FSGG Appropriations Bill

July 11, 2017

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The vast majority of Americans and charitable nonprofits, houses of worship, and foundations firmly believe that 501(c)(3) organizations should remain dedicated solely to the public good and should stay away from raw partisan politics. We ask that you consider the following:

- Nearly [three out of four American voters](#) (72 percent) want to keep current rules protecting 501(c)(3) organizations from partisan political activity, according to a poll conducted in March 2017.
- [89 percent of evangelical pastors](#) oppose the idea of clergy mixing partisan politics and religion by endorsing candidates from the pulpit, according to a survey conducted in February 2017 by the National Association of Evangelicals.
- More than [3,000 religious leaders](#) (so far) have signed a letter declaring they are “strongly opposed to any effort to repeal or weaken current law that protects houses of worship from becoming centers of partisan politics,” in part because “issuing endorsements would be highly divisive and have a detrimental impact of congregational unity and civil discourse.”
- Nearly [100 national and state religious and denominational organizations](#) signed a letter to Congress stressing: “People of faith do not want partisan political fights infiltrating their houses of worship. Houses of worship are spaces for members of religious communities to come together, not be divided along political lines; faith ought to be a source of connection and community, not division and discord.”
- So far, more than 4,800 charitable, religious, and philanthropic organizations from all 50 states have signed the [Community Letter in Support of Nonprofit Nonpartisanship](#), demonstrating strong opposition to proposals to politicize our community by repealing or weakening the Johnson Amendment, in part because “nonpartisanship is a cornerstone principle that has strengthened the public’s trust” in the charitable community by screening out “doubts and suspicions regarding ulterior partisan motives ... as undoubtedly would occur if even just a few charitable organizations engaged in partisan politics.”

It is essential that you work to remove Section 116 from the Financial Services and General Government Appropriations Act of 2018. As nonprofits across the country do every day, we are prepared to work with Committee members to address the real challenges in our communities; our desire is that we all work together in the charitable nonprofit way – without regard to partisan identity or political campaign activities. We invite you to learn more about the value and background of nonprofit nonpartisanship by going to [www.GiveVoice.org](http://www.GiveVoice.org).

Sincerely,

National Council of Nonprofits



Alaska

Foraker Group



Arizona

Alliance of Arizona Nonprofits



Arkansas

Arkansas Nonprofit Alliance



California

California Association of Nonprofits (CalNonprofits)



**Colorado**

Colorado Nonprofit Association



**Connecticut**

Connecticut Community Nonprofit Alliance



**Delaware**

Delaware Alliance for Nonprofit Advancement (DANA)



**District of Columbia**

Center for Nonprofit Advancement



**Florida**

Florida Nonprofit Alliance



**Hawai`i**

Hawai`i Alliance of Nonprofit Organizations



**Idaho**

Idaho Nonprofit Center



**Illinois**

Forefront



**Iowa**

Nonprofit Association of the Midlands



**Kansas**

Kansas Association of Community Foundations



**Kentucky**

Kentucky Nonprofit Network



**Louisiana**

Louisiana Association of Nonprofit Organizations



**Maine**

Maine Association of Nonprofits



**Maryland**

Maryland Nonprofits



**Massachusetts**

Massachusetts Nonprofit Network



Providers' Council



**Michigan**

Michigan Nonprofit Association



**Minnesota**

Minnesota Council of Nonprofits



**Mississippi**

Mississippi Center for Nonprofits



**Missouri**

Network for Strong Communities



Nonprofit Missouri



**Montana**

Montana Nonprofit Association



**Nebraska**

Nonprofit Association of the Midlands



**Nevada**

Alliance for Nevada Nonprofits



**New Hampshire**

New Hampshire Center for Nonprofits



**New Jersey**

Center for Non-Profits



**New Mexico**

New Mexico Thrives



**New York**

New York Council of Nonprofits



Nonprofit Coordinating Committee of New York



**North Carolina**

North Carolina Center for Nonprofits



**North Dakota**

North Dakota Association of Nonprofit Organizations



**Ohio**

Ohio Association of Child Caring Agencies



Ohio Association of Nonprofit Organizations



**Oklahoma**

Oklahoma Center for Nonprofits



**Oregon**

Nonprofit Association of Oregon



**Pennsylvania**

Pennsylvania Association of Nonprofit Organizations



**Rhode Island**

Rhode Island Foundation



**South Carolina**

Together SC



**Texas**

Texas Association of Nonprofit Organizations



**Utah**

Utah Nonprofits Association



**Vermont**

CommonGood Vermont



**Virginia**

Center for Nonprofit Advancement



**Washington**

Washington Nonprofits



**West Virginia**

West Virginia Nonprofit Association





Nonprofit Letter on Section 116 of the FSGG Appropriations Bill  
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**Wisconsin**

Wisconsin Nonprofits Association



**Wyoming**

Wyoming Nonprofit Network



cc: Members of the House Appropriations Committee