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June 11, 2018

The Honorable Rodney P. Frelinghuysen
Chairman
House Appropriations Committee
Washington, D.C. 20515

The Honorable Nita Lowey
Ranking Member
House Appropriations Committee
Washington, D.C. 20515

Re: Strike Section 112 of the FSGG Appropriations Bill Because the Provision Would Weaken the Johnson Amendment

Dear Chairman Frelinghuysen and Ranking Member Lowey:

On behalf of Americans United for Separation of Church and State, we urge you to strike Section 112 from the FY2019 Financial Services and General Government (FSGG) Appropriations bill. By creating unnecessary hurdles that would slow down and prevent investigations, Section 112 would essentially cripple enforcement of the Johnson Amendment insofar as it applies to houses of worship.

The Johnson Amendment, which has been part of the tax code for six decades, ensures that tax-exempt organizations, including houses of worship, do not endorse or oppose political candidates. Charities and houses of worship are granted special 501(c)(3) tax-exempt status because they work for the common good, not so they can support political candidates. The Johnson Amendment protects their right to speak out about political and social issues while, at the same time, ensuring they are not pressured by political candidates and campaigns to take a side in divisive partisan elections.

The Johnson Amendment, in its current form, is widely supported by religious and denomination organizations,¹ faith leaders,² and other non-profits,³ as well as the vast majority⁴ of Americans.

Section 112 of this bill, however, would undermine enforcement of the Johnson Amendment by requiring the IRS Commissioner to first sign off on and report to Congress any investigation into violations by houses of worship before it could take place. This new special treatment for houses of worship would slow, if not entirely end, enforcement of the Johnson Amendment as applied to houses of worship.

¹ See [Letter to Congress from 106 Religious and Denominational Organizations](#) (last updated Nov. 13, 2017).

² See [Letter to Congress from Faith Voices in Support of Keeping Houses of Worship Nonpartisan](#) (last updated June 7, 2018).

³ See [Letter to Congress from Organizations in Support of Nonpartisanship](#) (last updated Sept. 5, 2017).

⁴ See Project Fair Play, [Polls: the Vast Majority of Americans Support the Johnson Amendment](#) (last visited May 31, 2018).

The Johnson Amendment Protects the Integrity and Independence of Houses of Worship.

The Johnson Amendment ensures that sanctuaries remain sacred and that houses of worship focus on fostering community and performing good works. Allowing churches to endorse and oppose political candidates, in contrast, would transform houses of worship into tools for political parties and candidates and split communities and congregations.

Houses of worship are spaces for members of religious communities to come together, not to be divided along political lines; they ought to be a source of connection and community, not division and discord. Permitting political endorsements in churches would give partisan groups incentive to use congregations as a conduit for campaign activity and expenditures. Undermining this law by weakening its enforcement would make houses of worship vulnerable to individuals and corporations who could offer large donations or to a politician promising social service contracts in exchange for taking a position on a candidate.

Houses of worship and faith leaders have made clear that they do not want to weaken enforcement of the Johnson Amendment.

Churches and Other Houses of Worship Currently Have Robust Free Speech Rights that Allow Them to Engage on Political Issues.

The Johnson Amendment ensures that houses of worship have strong speech rights that allow them to use their prophetic voice to speak truth to power and fulfill their call to act for social justice. Houses of worship, denominational organizations, and faith leaders have always been active participants in the American political process. Passage of the Johnson Amendment six decades ago did not change that.

Under current law, tax-exempt houses of worship and the faith leaders who represent them can speak to any issue they choose. Pastors can speak to political issues from the pulpit, at church gatherings, and in correspondence and documents. They can take positions on and can lobby on specific legislation. In addition, they can host candidate forums, hold voter registration drives, encourage people to vote, and help transport people to the polls. They simply cannot endorse or oppose candidates or political parties. In addition, faith leaders can endorse candidates in their personal capacity or run for office themselves.

Furthermore, the IRS has not investigated a single house of worship for a Johnson Amendment violation since 2009, making claims that the law is an imminent threat to the free speech of houses of worship or that churches are being targeted for enforcement not credible.

Weakening Enforcement Only for Houses of Worship Creates Constitutional Problems.

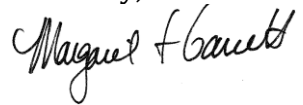
Under the religious freedom protections provided by the First Amendment of the U.S. Constitution, the government cannot prefer or favor religion or non-religion.⁵ The Johnson Amendment applies to all 501(c)(3) tax-exempt organizations, yet section 112 of this bill would require special enforcement procedures only for houses of worship. This special treatment raises serious concerns under the Establishment Clause of the First Amendment and undermines religious freedom.

⁵ See *Texas Monthly v. Bullock*, 489 U.S. 1, 11 (1989) (finding that benefits conferred only to religious organizations would constitute state sponsorship of religion and would lack a secular purpose necessary to be constitutional under the Establishment Clause).

Conclusion

For all the above reason, we urge you to strike section 112 from the appropriations bill. Americans do not want our houses of worship to be torn apart by partisan campaign politics. Passage of section 112 would allow just that.

Sincerely,

A handwritten signature in cursive script that reads "Maggie Garrett".

Maggie Garrett
Legislative Director
Americans United for Separation of Church and State