



EDITORIAL BOARD ALERT

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Campaign Finance Riders Do Not Belong in Appropriations Legislation

Congressional Republicans Risk a Government Shutdown to Expand the Reach of Secret Corporate Money

Despite the anti-big money wave President Donald Trump rode to the White House and his repeated promises to “drain the swamp,” Republicans in Congress are attempting to abuse the appropriations process and attach poison pill policy riders to the FY 2018 budget to turn churches into partisan receptacles for large, undisclosed political contributions; prevent disclosure requirements for corporate spending in elections; and increase the fundraising capabilities of powerful industry trade groups. Appropriations bills must be passed and signed by Sept. 30 in order to keep the government funded, and pushing unpopular policies like these in must-pass legislation puts the nation at risk of a government shutdown.

One policy rider would exacerbate the problem of anonymous donors funneling money to charities to influence elections by making it effectively impossible for the Internal Revenue Service (IRS) to enforce a prohibition on tax-exempt churches from engaging in partisan political activity. A related rider would prevent the IRS from clarifying the rules that govern the political activity of all nonprofits – the primary vehicles for special interests to secretly influence elections right now.

Another rider would prevent the U.S. Securities and Exchange Commission (SEC) from finalizing new rules to require public corporations to disclose their political spending to shareholders. Lastly, [legislation](#) approved by the U.S. House Appropriations Committee would prevent the Federal Election Commission (FEC) from enforcing a ban on companies donating to more than one trade association PAC each year.

All of these measures [defy](#) public opinion – including the preferences of many Trump voters, who are frustrated with a government that works best for campaign donors. Recent polling indicates Americans [believe](#) President Trump is failing to fulfill his promise to “drain the swamp,” [agree](#) that wealthy people already have too much influence in Washington and [oppose](#) churches engaging in political activity. Signing these measures into law is bad policy and will not help the president and Republicans in Congress improve these numbers. Moreover, such policy changes do not belong in a funding bill to begin with.

Please demand that Congress to remove harmful and unpopular campaign finance riders from funding legislation, so that our government can continue to serve the American people.

Background on the IRS Riders

In May, Trump issued an executive order claiming to soften enforcement of the Johnson Amendment, a long-standing federal law prohibiting tax-exempt charities from engaging in political activity, insofar as it applies to churches. The order later was revealed to have minimal practical impact. Even so, an array of impacted nonprofits and religious organizations [strongly objected](#) to the spirit and ultimate goal of the order. In the weeks before Trump signed the order, nearly 4,500 organizations from every state and every segment of the charitable and foundation communities signed a [letter](#) in support of the Johnson Amendment.

Nevertheless, in June, House Republicans picked up where Trump left off with the inclusion of Section 116 in the 2018 Financial Services and General Government Appropriations [legislation](#), which would make it effectively impossible for the IRS to enforce the Johnson Amendment when it comes to religious institutions. The provision again provoked sharp criticism from across the charitable sector and among houses of worship.

In a letter to the House Appropriations Committee, 108 nonprofits [explained](#) their opposition to Section 116:

“The Johnson Amendment protects the integrity of tax-exempt organizations, including houses of worship, by ensuring they do not endorse or oppose candidates. Weakening current law would allow politicians and others seeking political power to pressure churches for endorsements, dividing congregations and opening them up to the flow of secret money. Americans – [including most clergy](#) – do not want our charities and houses of worship to be torn apart by partisan campaign politics. We must keep this valuable safeguard that protects our houses of worship and our political process.”

“The charitable sector, particularly houses of worship, should not become another cog in a political machine or another loophole in campaign finance laws,” concluded 99 religious and denominational organizations that also wrote a [letter \(PDF\)](#) opposing Section 116.

A ‘Solution’ for a Non-Existent Problem

Supporters of repealing the Johnson Amendment claim that it infringes on the speech rights of churches and charities, but nothing could be further from the truth. As nonprofit groups have [made clear \(PDF\)](#), “under the current law, which has been in place for the last six decades, houses of worship have maintained robust free speech rights and can speak out on any political and social issues that they see as important. They currently can engage in public debate on any issue, host candidate forums, hold voter registration drives, encourage people to vote, help transport people to the polls and even, with a few boundaries, lobby on specific legislation and invite candidates to speak. They simply cannot endorse or oppose candidates and maintain their special tax-exempt status.”

Religious organizations agree that the Johnson Amendment does not restrict speech rights. On this point, some religious organizations [wrote \(PDF\)](#):

“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. Indeed, the vast majority of Americans [do not want](#) houses of worship to issue political endorsements. ... Current law protects the integrity of houses of worship. If houses of worship endorse candidates, their prophetic voice, their ability to speak truth to power as political outsiders, is threatened. The credibility and integrity of congregations would suffer with bad decisions of candidates they endorsed. Tying America’s houses of worship to partisan activity demeans the institutions from which so many believers expect unimpeachable decency.”

More than 3,700 faith leaders and counting echoed this sentiment [in another letter](#):

“Current law respects this independence and strikes the right balance: houses of worship that enjoy favored tax-exempt status may engage in advocacy to address moral and political issues, but they cannot tell people who to vote for or against. Nothing in current law, however, prohibits me from endorsing or opposing political candidates in my own personal capacity. Changing the law to repeal or weaken the ‘Johnson Amendment’ – the section of the tax code that prevents tax-exempt nonprofit organizations from endorsing or opposing candidates – would harm houses of worship, which are not identified or divided by partisan lines.”

Undermining Campaign Finance Disclosure

Moreover, “rolling back limitations on political activities by charities and churches could offer billionaire donors a way to not only influence elections anonymously, but also to get a charitable tax deduction for doing so,” [wrote](#) Campaign Legal Center’s Brendan Fischer in a white paper on destroying the Johnson Amendment.

In a [letter](#) to the House Appropriations Committee, Fischer elaborated further:

“The prohibition on political intervention by charities – adopted during the Eisenhower administration – prevents houses of worship and charities from operating as tax-deductible vehicles for donors to secretly influence elections. Entities incorporated under Section 501(c)(3) of the Internal Revenue Code are subsidized by taxpayers for their charitable, religious, and educational work, not for partisan political activity. Absent this prohibition, wealthy political donors could receive a charitable tax deduction for their secret partisan political spending. Section 116 would undermine enforcement of this commonsense, longstanding law that has been strengthened and affirmed on a bipartisan basis by administration of both parties since the 1950s. The provision requires consent from the IRS Commissioner and two committees in Congress before a house of worship engaged in partisan political activity may be investigated—which would politicize and likely halt investigations into violations of the tax code.”

An Actual Problem in Need of Bright Line Rules

While the president and House Republicans try to solve an IRS problem that doesn’t exist, they are actively blocking the solution to an IRS problem that does exist. In addition to the rider weakening the Johnson Amendment, they also are trying to pass another rider that prevents the IRS from clarifying rules governing the political activity of all nonprofits.

Since *Citizens United v. Federal Election Commission* in 2010, hundreds of millions of dollars have flowed to 501(c) organizations for the supposed purpose of “social welfare” activity, when in actuality the money has been spent primarily on TV ads to support or oppose political candidates. In many cases this political activity by nonprofits likely breaks the law, but the IRS’ vague “facts and circumstances” test for judging whether an organization is engaged in electioneering has led to a scenario in which political operatives and big donors routinely stretch the limits of the law with impunity.

The “scandal” over the IRS’ scrutiny of 501(c) applications brought this vague rule into the spotlight and demonstrated the need for a [bright-line definition](#) of political activity for all nonprofits, so that the rules can be enforced and so that nonprofits have a clear idea of what is and isn’t allowed.

In the aftermath of the so-called targeting scandal, the IRS proposed new rules that would clarify the standard for 501(c)(4) political activity. The proposed rule garnered more than 160,000 public comments, a record for a proposed IRS regulation. While the rules were a step in the right direction, they required significant improvement, which the IRS acknowledged when it decided to revise the rules before holding a public hearing.

But as the IRS prepared to release a new draft of the rules, Republicans in Congress succeeded in attaching a rider to the budget preventing the agency from continuing to work on the rulemaking and fixing the problem. Moreover, they fueled calls for the impeachment of IRS Commissioner John Koskinen. [Impeaching](#) the commissioner may make headlines, but in reality, it will only make it harder for the IRS to do what the members of Congress claim they want: to clarify the subjective rules governing what organizations should be granted nonprofit status.

It's critical that the rider is blocked this year so that the IRS can get back to work and stop special interest groups from abusing the system to secretly influence elections.

More information is available at Public Citizen's [Bright Lines Project](#).

Recent News

- [Repealing the Johnson Amendment Would Turn Churches Into Super PACs](#) (Bangor Daily News, Aug. 8, 2017)
- [Republicans Are Using an Obscure Bill to Quietly Erode the Separation of Church and State](#) (ThinkProgress, July 26, 2017)
- [Keep Political Campaigns Out of the Churches](#) (Los Angeles Times, July 25, 2017)
- [How Republicans Protect Anonymous Donors and Their 'Dark Money' Groups](#) (International Business Times, July 6, 2017)
- [The Latest Sneaky Attempt to Increase Corporate Political Power](#) (Moyers & Company, July 31, 2017)
- [Johnson Amendment Under Threat as House Republicans Target Law Keeping Churches Out of Politics](#) (Newsweek, June 30, 2017)
- ['Dark Money' Is the IRS's Real Problem](#) (The Washington Post, Oct. 11, 2015)
- [Budget 'Rider' Would Protect Secret Money in Elections](#) (Baltimore Sun, Aug. 12, 2015)

Background on the SEC Rider

The SEC could quickly shine a light on large swaths of the undisclosed money in federal elections by promulgating a rule requiring publicly traded companies to disclose all political spending, including money funneled through nonprofits and trade associations.

A proposed SEC [rulemaking](#) to do just that [received](#) more than 1.2 million public comments – the most in the history of the agency. Moreover, a [broad coalition](#) representing financial asset managers, socially responsible investors, city and state comptrollers, unions, citizen action groups and faith leaders stands in support of the rulemaking. Nevertheless, the agency unexpectedly [removed](#) the rulemaking from its agenda at the start of 2014, leading to mounting [pressure](#) on the SEC and its former director Mary Jo White to get back to work on the rulemaking.

After years of trying, in 2015 Republicans in Congress finally succeeded in attaching a rider to a spending bill preventing the SEC from finalizing such a rule. Because the rider did not say anything about continuing to work on the rule, many [continued](#) to call on White's SEC to take steps to prepare for a rule. When White resigned, some Senate Democrats [voted against](#) her successor, Jay Clayton, because he refused to support disclosure of corporate political spending. Still, Republicans succeeded in preserving the rider in a 2017 [continuing resolution](#) even as shareholders at dozens of companies [demanded](#) more transparency.

It's critical that the rider is blocked this year, so that the SEC can finalize this rule and ensure investors are not left in the dark when their companies donate to a politically active trade association or nonprofit group. Information on political spending is material to shareholders as they make decisions about where to invest, particularly with growing evidence that political spending might not always benefit the corporate bottom line.

More information is available at the [Corporate Reform Coalition](#).

Background on the FEC Riders

Just last month a large majority of Americans [told](#) pollsters that they believe large businesses have too much influence in Washington. But that didn't stop Republicans on the House Appropriations Committee from advancing a rider in the budget that would prevent the FEC from enforcing restrictions on trade association PAC fundraising.

“At the moment, only one trade association at a time can ask the employees of a corporation for money. The rider would [bar](#) the FEC from enforcing this rule in 2018, allowing every trade association under the sun to receive money from a given corporation during that year,” [wrote](#) reporter John Light of BillMoyers.com.

Meredith McGehee, head of policy for Issue One, issued a stern warning in response to the rider. “Should this rider become law, these specialty PACs would be free to solicit donations from a drastically expanded pool of potential donors, and corporate executives would be permitted to give contributions to multiple trade associations, increasing the disparity between large-dollar donors and the vast majority of Americans,” she [wrote](#).

Background on Secret Money in Elections

The 2010 U.S. Supreme Court decision in *Citizens United* dramatically changed the way American elections are financed for the worse. Though the majority opinion expressly endorsed the importance of transparency in political spending to provide “shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters,” the decision has resulted in anything but transparency in elections.

Taking advantage of lax enforcement and vague IRS rules, nonprofit “social welfare” organizations and trade associations have been repurposed into political spending juggernauts with the ability to keep their donors secret. Since the court's decision, these groups have spent more than \$800 million to [influence](#) federal elections (and many millions more in state and local elections) – including more than \$180 million in the 2016 cycle.

We need Congress and the executive branch to take action to fix this problem so the American people know who is trying to influence our representatives and our votes. These riders at best maintain and at worst exacerbate the status quo and will continue to fuel voters' perceptions that our government is working for wealthy special interests, not all Americans.

Relevant Polling

[Associated Press-NORC – July 2017](#)

Large majorities of the public think wealthy people (82 percent), large businesses (69 percent), political lobbyists (65 percent) and Wall Street (59 percent) have too much influence in Washington.

In contrast, large majorities of the public think poor people (76 percent), people like themselves (75 percent), small businesses (65 percent) and working people (69 percent) have too little influence.

Monmouth University – May 2017

Only 24 percent of Americans believe President Trump is making progress on his pledge to drain the swamp, including 51 percent of Republicans, 24 percent of independents and 4 percent of Democrats.

32 percent of the public say Trump is actually making the swamp worse, including 53 percent of Democrats, 34 percent of independents and 3 percent of Republicans. Another third (35 percent) say that nothing about the swamp has really changed under Trump, an opinion shared fairly equally by Republicans (37 percent), Democrats (36 percent) and independents (34 percent) alike.

Public Religion Research Institute – May 2017

More than seven in 10 (71 percent) Americans oppose allowing churches and places of worship to endorse political candidates while retaining their tax-exempt status.

All major religious groups in the country oppose allowing churches to endorse candidates while retaining their tax-exempt status, including 56 percent of white evangelical Protestants.

TargetPoint Consulting – March 2017

A majority of voters (72 percent) want to keep current law prohibiting 501(c)(3) organizations from engaging in partisan political activity, including 66 percent of Trump voters and 77 percent of independent voters.

Evangelical Leaders Survey – Feb. 2017

Nearly 90 percent of evangelical leaders do not think pastors should endorse politicians from the pulpit.

Pew Research – June 2016

66 percent of Americans expressed opposition to church endorsements of political candidates, which is roughly stable with other readings taken over the past eight years.

Even among the religious groups that are most in favor of church endorsements of candidates – black Protestants and white evangelicals – just 45 percent of the former and 37 percent of the latter say it's okay for churches to endorse political candidates.

Only 33 percent of Republicans and Republican-leaning independents say churches should endorse political candidates.

LifeWay Research – Sept. 2015

Eight in 10 (79 percent) say it is inappropriate for pastors to endorse a candidate in church. Three-quarters say churches should steer clear of endorsements.

Public Policy Polling – Sept. 2015

91 percent of Democrats and 91 percent of Republicans believe that Super PACs and special interest groups should have to disclose the source of their funding.

88 percent of Democrats and 88 percent of Republicans believe the SEC should force corporations to disclose their political spending.

78 percent of Democrats and 66 percent of Republicans support an executive order requiring government contractors to disclose their political spending.

The New York Times/CBS News – May 2015

76 percent of Democrats and 75 percent of Republicans think groups not affiliated with a candidate that spend money during political campaigns should be required to publicly disclose their contributors.

Lake Research Partners/Chesapeake Beach Consulting – Sept. 2014

80 percent of voters think it is important to have clear rules in place concerning political activities of nonprofit organizations.

80 percent of voters think that political operatives, wealthy donors and organizations taking advantage of unclear regulations is a problem.

Nearly two-thirds of voters (63 percent) feel more favorable towards new rules that include disclosure.

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