



* * ACTION ALERT * *

Omnibus Spending Bill Released. No Anti-Johnson Amendment Rider Included.

Hello Friends,

NAM has worked to make sure you are informed and up to date about the threat to the Johnson Amendment. We are happy to say that it has been left unharmed, for now. Thank you for all your hard work on keeping politics out of the nonprofit sector. We will continue to follow any new attempts and keep you informed.

This Week

Wednesday night, the House and Senate Appropriations Committees released the text of the [omnibus spending bill](#), officially titled the Consolidated Appropriations Act of 2018, designed to fund the federal government through the current fiscal year 2018 that ends on September 30. The 2,232-page bill contains numerous extraneous policy riders, but lawmakers did not include a provision to repeal or weaken the longstanding [Johnson Amendment](#), the law that protects charitable nonprofits, houses of worship, and foundations from partisan politics. See article below. This Special Edition of Nonprofit Advocacy Matters reviews the status of the efforts to politicize charitable nonprofits, provides quick analysis of the omnibus spending bill, and looks ahead to spending priorities for fiscal year 2019, which begins October 1.

Johnson Amendment Left Unharmed, for Now

Thanks to strong, united self-defense lobbying by charitable nonprofits, houses of worship, and foundations from all 50 states and DC, the omnibus spending bill does not include language sought by powerful politicians and well-funded special interests to dismantle the Johnson Amendment that for 60+ years has protected 501(c)(3) organizations from the perils of divisive partisan politicking. The anti-Johnson Amendment forces tried to attach a policy rider to the spending bill that would have politicized charitable, religious, and philanthropic organizations. Their aggressive campaign, however, was blocked by people across America who knew how devastating it would be to undermine nonprofit nonpartisanship.

In a [news release](#), National Council of Nonprofits President and CEO Tim Delaney stated: "Keeping intact the longstanding law known as the Johnson Amendment is at least a short-term victory for 501(c)(3) organizations and the American people." He acknowledged, "It would be nice to celebrate a long and hard-fought victory, but we cannot afford to relax," reminding all that last year "prominent politicians and well-funded lobbyists tried to gut the Johnson Amendment through an executive

order and five separate bills." The statement continued by observing, "[t]heir zeal last year suggests they likely will continue their push to hijack charitable goodwill for their own political ambitions while rewarding their supporters with charitable tax deductions for partisan donations." If so, all who care about the missions and effectiveness of charitable nonprofits, houses of worship, and foundations will once again need to "rise in force to defend this vital, longstanding protection."

The 501(c)(3) community must remain vigilant because anti-Johnson Amendment language could resurface yet again in this spending bill (especially if there are delays in passage that open the door for further negotiations -- as discussed below), in the fiscal year 2019 appropriations process this summer, or in other bills. Readers who haven't signed their organizations onto the [Community Letter in Support of Nonpartisanship](#) are encouraged to join the nearly 5,800 charitable, religious, and philanthropic organizations in expressing strong support for maintaining the Johnson Amendment. [See who has signed.](#)

Omnibus Spending Bill

Congress has less than two days to enact the omnibus spending bill before the expiration on Friday, March 23, of a stopgap funding bill. If legislative action is not completed before Saturday, Congress will either have to enact another short-term continuing resolution, perhaps for two or three days, or allow the federal government to shut down for a third time this year. A continuing resolution is becoming more likely because of procedural rules and likely delaying tactics. The House typically observes a three-day rule between when a bill is introduced and a final vote occurs, but is expected to waive that provision and vote as early as Thursday. This would give the Senate only one day to pass the measure before the current spending bill expires.

In the Senate, any Senator can filibuster, or delay a vote through debate, to express her or his disagreement with the spending priorities in the bill. In February, Senator Paul (R-KY) used this delaying tactic, forcing the federal government to close for several hours. Even with 99 Senators opposing a filibuster, a Senator can delay the vote for 30 or more hours, taking the debate into Saturday. Also, Senators could offer amendments that, if adopted, would mean that the bill has to go back to the House for debate and vote, further delaying a resolution.

The political dynamics of the omnibus spending bill are different from the tax bill that passed in December because there are no special procedural gimmicks that would allow a bill to pass with only one-party support. Democratic votes will be needed to pass the bill in both chambers. House conservative Republicans are expected to oppose the bill in large numbers because of the \$143 billion in new spending for both the Pentagon and domestic programs, and the lack of provisions related to abortion and other social issues. While complicating the negotiations over the details of the bill, the final result is that many controversial issues have been jettisoned from the omnibus spending bill and reserved for the FY 2019 spending bill and other legislative debates. All that said, because this is a "must-pass" bill, everyone is trying to attach her or his desired topic onto this bill, so any delays in final passage could open the door for further negotiations and changes.

What's In the Bill

The \$1.3 trillion spending legislation funds discretionary spending programs throughout the federal government, including many through which charitable nonprofits are reimbursed for the services they provide on behalf of governments at all levels. Below are highlights deemed most relevant to charitable and philanthropic organizations; readers are encouraged to review the additional materials provided in the sidebar.

- **Big Picture Spending:** Pursuant to the Bipartisan Budget Act passed in February, the omnibus spending bill provides an additional \$143 billion in

spending for the remainder of FY 2018 compared to limits set under a 2011 deficit reduction law. The bill to be voted on this week provides \$80 billion in new spending for defense and \$63 billion more for domestic programs. The legislation includes more than \$21 billion for infrastructure projects across the country, including transportation, energy, water, and cyber. In a reversal from past funding practices, the legislation increases money for the Internal Revenue Service by about 10 percent, apparently in recognition of the increased regulatory and enforcement workload resulting from the new tax law enacted in December.

- **Arts, Culture, and Community Engagement:** The legislation would fund the National Endowments for the Arts and the National Endowment for the Humanities at \$153 million each, \$3 million more than last year. The Corporation for National and Community Service (CNCS) would receive about a 5 percent increase over last year, while the Corporation for Public Broadcasting (CPB) would be funded at the same level. Each of these programs was slated for elimination in the President's budget requests for FY 2018 and FY 2019
- **Census 2020:** The bill provides a \$1.34 billion increase for the Census Bureau to help prepare for the 2020 count. This amount is double what the President requested.
- **Education:** The bill would increase the maximum Pell Grant award to \$6,095, and would provide \$350 million for the Public Service Loan Forgiveness Program that benefits employees of nonprofits and governments.
- **Food and Nutrition:** The bill would appropriate \$6.175 billion in discretionary funding for the Women, Infants, and Children (WIC) program, which is \$175 million below the fiscal year 2017 level. It would provide an additional \$1.5 billion for the child nutrition programs, including \$564 million for the Summer Food Service Program. The legislation would provide \$74 billion in required mandatory spending for the Supplemental Nutrition Assistance Program (SNAP), \$4.5 billion below last year's level.
- **Health:** Medical research at the National Institutes of Health, a longstanding bipartisan priority, would increase to \$37 billion, a \$3 billion bump. In the bill, there is \$2.8 billion for fighting opioid addiction, including \$1.4 billion for the Substance Abuse and Mental Health Services Administration.
- **Social Services and Assistance:** The bill would provide \$28 billion in discretionary funding for Administration for Children and Families (ACF), which is \$4 billion more than last year. Early childhood programs are slated to receive an increase of nearly \$3 billion; Head Start would see a boost of \$610 million, and the Child Care and Development Block Grant is slated to receive a \$2.4 billion increase to \$5.2 billion. There is also a \$2.37 billion increase for child care development block grants, an 80 percent year-over-year increase. The bill would provide 12.5 percent in annual credit allocations for four years in the Low-Income Housing Tax Credit Program, and expands the income-averaging rules.

Items Left Out, and Why They Still Matter

Numerous controversial policy provisions did not make it into the final draft of the legislation, despite active lobbying from many sides. These issues represent much of the legislative agenda for the remainder of the year, although some reflect election-year posturing that may have to be resolved in a post-election, lame-duck session. These include:

- **Immigration:** The bill does not include a short-term Dreamer/Deferred Action for Childhood Arrivals (DACA) extension, despite Senate Democrats allowing the government to shut down in January to force resolution of the issue. The Administration reportedly balked at a proposal by Democrats to extend the DACA program permanently in exchange for full funding (\$25 billion) for the southern border wall. The White House countered with an offer of a 2.5 year extension while insisting on the full \$25 billion. Democrats didn't accept the counter-offer, leaving the issue unresolved while the courts weigh whether

the President's action to eliminate the DACA program was lawful. The bill includes only \$1.6 billion for border security, but doesn't authorize spending for significant wall construction.

- **Obamacare Stabilization:** To avoid severe premium hikes this fall, several Republican Senators offered a package that would have provided \$30 billion for cost-sharing subsidies and reinsurance under the Affordable Care Act, but with expanded abortion restrictions to which Democrats objected.
- **Poison Pill Riders:** The draft bill released on Wednesday stripped out more than 100 controversial, or poison pill, riders - proposed policy changes to substantive law that could not pass as freestanding measures. These riders included language that would have loosened campaign finance coordination limits and a proposal that would have barred federal funds for the nonprofit Planned Parenthood. As with the Johnson Amendment, many of these extraneous items are likely to be seen again in the bills to fund the federal government for FY 2019.
- **Sexual Harassment Overhaul:** Negotiators couldn't reach agreement on a House-passed measure, inspired by the #MeToo movement, that would have toughened sexual harassment policies on Capitol Hill.

Next Step, FY 2019 Appropriating

As the ink is drying on the legislation to fund the government through the current fiscal year, Congress must immediately shift to drafting a dozen appropriations bills for the next fiscal year, FY 2019, that begins on October 1. The release of the [President's budget request](#) in February normally kicks off the budgeting and spending legislative process, but the delay in resolving FY 2018 spending has prevented members and staff from focusing on the next fiscal year's details. Nine [House Appropriations subcommittee](#) hearings were scheduled this week on the FY 2019 spending requests from the President, but the Senate Committee has held no hearings this month. Current Senate Appropriations Committee Chairman Cochran (R-MS) has announced his retirement upon completion of the omnibus spending bill; as a result, the Committee will have to play catch-up in April and May under a new chairman, suggesting that further delay is possible as subcommittee chairmanships are reshuffled.

Appropriators will begin drafting spending bills by June and many could pass in the House and perhaps the Senate before the August recess. Because many issues, such as the [Johnson Amendment](#), were left out of the omnibus spending bill and because this is a federal election year, nonprofits will need to keep close watch on the FY 2019 appropriations bills to ensure that adverse, extraneous riders are not attached, and that appropriate spending levels are enacted.

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