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May 13, 2025

Oppose Sec. 112209 of the Ways and Means Budget Reconciliation

Dear Member of the Committee on Ways and Means:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 240 national advocacy organizations, I am writing to express our opposition to Section 112209 of the Amendment in the Nature of a Substitute to Committee Print Providing for Reconciliation. While we oppose the bill as a whole, we are particularly troubled by and are writing separately regarding Section 112209, which in our view raises significant constitutional concerns.

Section 112209, entitled "Termination of Tax-Exempt Status of Terrorist-Supporting Organizations," proposes to grant the Secretary of the Treasury broad and unilateral discretion to brand any nonprofit in the United States as a "terrorist supporting organization" and to strip it of its tax-exempt status upon a determination by the secretary that the organization has provided vaguely defined "material support or resources" to a terrorist group.

The provisions of Section 112209 invite the risk of politicized and discriminatory enforcement against nonprofit organizations within the United States. These provisions are not necessary, as the federal government already has extensive authority to prohibit transactions with individuals and entities it deems connected to terrorism, and nonprofit organizations are already prohibited — including under criminal law — from providing material support for terrorist organizations.

The key difference Section 112209 would make from existing law is that it would eliminate due process. Under its provisions, the Secretary of the Treasury could strip a United States nonprofit of its tax-exempt status without providing it with a meaningful opportunity to defend itself before a neutral decisionmaker. The bill does not require disclosure of the reasons for such a decision, the evidence relied upon to support the decision, or any evidence in the government's possession that might undermine its decision, leaving an accused nonprofit entirely in the dark about what conduct the government believes qualifies as "material support or resources."

Given its lack of procedural safeguards, the potential for abuse under Section 112209 is troubling. It would give the executive branch a tool it could use to curb free speech, censor nonprofit media outlets, target political opponents, and punish disfavored groups across the

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political spectrum. Moreover, the addition of this authority to the tax code would allow the IRS to explicitly target and harass domestic nonprofits through its investigative authority. We are concerned this authority could be used by any administration to target political opponents, relying to great extent on the prospect of staggering legal fees and protracted litigation, the public stigma of an adverse designation, and the deterrence of donors, all of which would have the effect of stifling dissent and chilling free speech.

For these reasons, The Leadership Conference on Civil and Human Rights strongly urges you to strike Section 112209 from the budget reconciliation package and to oppose the reconciliation package as a whole. Thank you for your consideration. If you have any questions, please contact Rob Randhava, senior counsel, at randhava@civilrights.org.

Sincerely,



Jesselyn McCurdy
Executive Vice President of Government Affairs