



Opposing S. 1274 FEMA Aid to Rebuild Houses of Worship

Dear Senator:

The Secular Coalition for America strongly opposes S. 1274 sponsored by Senator Gillibrand (D-N.Y.), to authorize FEMA relief aid to build churches, synagogues, mosques, temples, or other houses of worship. We believe that the intentions of the drafters were pure and we empathize with all who incurred damage as a result of Hurricane Sandy. However, this violates longstanding constitutional principles that protect the government, houses of worship, and individual religious freedoms. Each brick used to rebuild a house of worship is one removed from the wall of separation between religion and government. We ask that you vote “Nay” on S.1274.

The Supreme Court firmly established that government funds may not be reserved for the construction or renovation of facilities which in any way would be used for religious activities¹. The Court has specifically answered the constitutional question presented by this bill, that the State “may not maintain [buildings in which religious activities take place] or renovate them when they fall into disrepair.”² This precedent remains controlling law. Neither the cases, nor the principle they laid forth, have ever been overruled in any subsequent Supreme Court decisions.

Supporters of this bill point to the Sixth Circuit case of *American Atheists v. City of Detroit Downtown Development Authority* for legal support; however, this is a misapplication of this authority. In *American Atheists*, the court ruled that in this limited scope government funding of religious organizations was permissible because it was part of a program which supplied money to all land owners in a specific geographic area.³ What the proposed Senate bill does is exactly what the *American Atheists* court decided that the government could not do, target religious organizations for special treatment.

The power to define which organizations qualify to receive federal aid is vested in the President, both under current law and in the proposed bill.⁴ Acting through the U.S. Department of Homeland Security, the President set forth guidelines which declare spaces primarily used for religious purposes ineligible.⁵ This bill’s proposed language defining houses of worship as eligible organizations directly conflicts with its transferal of that responsibility to the President.

¹ *Tilton v. Richardson*, 403 U.S. 672 (1971), and *Hung v. McNair*, 413 U.S. 734 (1973).

² *Committee for Public Education v. Nyquist*, 413 U.S. 756, 777(1973).

³ *American Atheists v. Cith of Detroit Downtown Development Authority*, 567, F.3d 278, (6th Cir. 2009).

⁴ 42 U.S. C. 5122(11)(B) “...as defined by the President.”

⁵ FEMA.gov, Disaster Assistance Policy 9521.3(7)(4)(3) “Space dedicated to or primarily used for *religious*, political, athletic, recreational, or vocational purposes, is not eligible for Public Assistance Program assistance under the governing statutes and regulations.”

Under current law, for a “private nonprofit facility” to receive FEMA funds, it must provide essential services to the general public *customarily provided by the government*.⁶ Examples include libraries, museums, and community centers. No member of Congress or citizen protected by the U.S. Constitution can deny that the First Amendment clearly and unequivocally bars the provision of religious services by the government. To cure this problem, the proposed bill removes the “governmental nature” requirement, opening the funding door to **any** nonprofit that provides services to the general public, over **1.5 million organizations**.⁷ While federal spending is slashed for even the most vital of programs, the addition of millions of eligible organizations, each requesting potentially millions of dollars in aid is irresponsible and could swiftly put the federal government in a devastating monetary crisis. While the services of these nonprofits may provide great benefit to the general public, federal funds should not be diverted away from essential governmental programs toward nonprofits with access to a charitable and generous base of donors nationwide and around the globe.

While all citizens use goods such as roads, schools, parks and other government funded goods, two-thirds of our citizens do not use houses of worship.⁸ As the percentage of Americans who identify as nonbelievers or nonreligious is at 20% and rapidly rising, now is not the time to pass hastily written legislation that would eschew our longstanding principles against forcing one citizen to fund the religious practices of another.

For the security of our economy, our conscience, and the religious freedom of every American, we urge you to vote "Nay" on S. 1274.

Thank you,



Kelly Damerow
Director of Federal and State Affairs

⁶ 42 U.S. C. 5122(11)(B) “...the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public...”

⁷ National Center for Charitable Statistics, all active organizations registered for tax-exempt status with the IRS.

⁸ *Pew Forum on Religion & Public Life, “Nones” on the Rise: One-in-Five Adults Have No Religious Affiliation. October 9, 2012*