

Tax Reform Bill Should Honor Free Speech of Churches and Charities

As Congress considers the Tax Cuts and Jobs Act this week, National Religious Broadcasters (NRB) welcomed efforts to lift the free speech burden of the infamous “Johnson Amendment” off of all charitable organizations. NRB believes the Free Speech Fairness Act unshackles basic expression, a priceless bedrock principle of our nation, without allowing charities to become conduits for targeted political expenditures.

“The sword of the Johnson Amendment has been permitted to dangle dangerously over the heads of pastors and charitable leaders for too long,” said NRB President & CEO Dr. Jerry A. Johnson. “I thank the House Ways & Means Committee for adopting the carefully crafted text of the Free Speech Fairness Act, which responsibly addresses this threat to Americans’ constitutional free speech rights.”

Uncertainty surrounding application of the constitutionally suspect Johnson Amendment has resulted in a chilling effect. The Free Speech Fairness Act, authored by Majority Whip Steve Scalise, R-La., and Rep. Jody Hice, R-Ga., in the House of Representatives and Sen. James Lankford, R-Okla. in the Senate, would remedy this by clarifying that political statements by 501(c)(3) organizations are permissible, as long as they are made in the ordinary course of an organization’s activities and any expenditures related to them are *de minimis*.

Countering those advocating for continued selective censorship under the Johnson Amendment regime, NRB President Johnson declared, “Let us be clear. The question before us today is not whether or not churches and charities should choose to

make political endorsements. The question—in the context of the well-balanced Free Speech Fairness Act—is whether or not the government should be empowered to stifle basic speech. Respectfully, nonprofit leaders should embrace liberty and be willing to take responsibility for their own comments freely made in the ordinary course of service to their constituents.”

Regarding language to sunset application of the Tax Cuts and Jobs Act’s Johnson Amendment remedy, Johnson added, “It has been posited that lifting the burden of the Johnson Amendment will ‘cost’ the government vast sums of ‘revenue.’ Given the careful constraints built into the bill language aimed narrowly at defending basic expression, I question the assumptions for that argument. However, even if the numbers were correct, Members of Congress should not be of a mind to allow the IRS to profiteer off of chilled speech. Our First Amendment freedoms are not for sale! The House and the Senate should reject any sunset to the liberty-affirming language of the Free Speech Fairness Act.”