

Tony Perkins: The Free Speech Fairness Act Needs Your Help

Last week, House Majority Whip Steve Scalise (R-La.) and Representative Jody Hice (R-Ga.) introduced H.R. 781, the Free Speech Fairness Act of 2017, in the House and Senator James Lankford (R-Okla.) introduced the companion bill, S. 264 in the Senate, to roll back the Johnson Amendment. The very next day, at the National Prayer Breakfast, President Trump reiterated his desire to see the Johnson Amendment repealed. Thus, now is the time for you to urge your senators and representative to co-sponsor the Free Speech Fairness Act.

During this past election cycle, it became abundantly clear that the Johnson Amendment is chilling the speech of churches, tax exempt organizations and their leaders. The Johnson Amendment says that tax-exempt organizations cannot participate in, or intervene in, any political campaign on behalf of or in opposition to any candidate for public office. It was introduced by Lyndon Johnson in 1954 after he was elected to the Senate, despite a tax-exempt organization urging his defeat, and was passed by being hidden in a larger tax package. In fact, the Johnson Amendment was passed without any debate or hearings about its implications for churches, charities and their leaders.

The IRS has the enforcement authority of the Johnson Amendment and has imposed fines and penalties against exempt organizations only to later refund the fines. The IRS enforcement of the Johnson Amendment has been very inconsistent, which has had a chilling effect on the speech of pastors and 501(c)(3) organizational leaders. This is particularly true because liberal organizations, like Americans United for Separation of Church and State, send letters to churches threatening to report them to the IRS if they violate the Johnson Amendment by, for example, speaking

out in favor of candidates that share their biblical values and even if they speak about certain moral and social issues like marriage.

In response to these threats, and because of the IRS' inconsistent application of the Johnson Amendment, annually on Pulpit Freedom Sunday, pastors across the country preach sermons that intentionally violate the Johnson Amendment and send them to the IRS, inviting the IRS to withdraw their tax-exempt status. Had the IRS done so, these churches would have been able to challenge the constitutionality of the Johnson Amendment in courts across the country. However, though Pulpit Freedom Sunday has occurred for about a decade, none of the churches that have participated have been able to adjudicate the issue in court.

Thus, it is time to change the law. That is why Senator Lankford, Majority Whip Scalise and Representative Hice introduced the Free Speech Fairness Act of 2017 (S. 264/ H.R. 781)—to restore the First Amendment free speech rights of pastors and leaders of tax-exempt organizations. The Free Speech Fairness Act simply allows tax-exempt organizations to engage in political speech. It does not allow non-profit organizations to act like political action committees and expend money on political campaigns.

Once the Free Speech Fairness Act is passed, pastors and organizational leaders' constitutional right to free speech will be restored. Now is the time to urge your senators and representative to co-sponsor this important legislation.

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