

June 20, 2017

The Honorable Paul Ryan
Speaker of the House
H-232, The Capitol
Washington DC 20515

The Honorable Mitch McConnell
Majority Leader
S-230, The Capitol
Washington, DC 20510

The Honorable Kevin McCarthy
Majority Leader
H-329, The Capitol
Washington DC 20515

The Honorable John Cornyn
Majority Whip
S-208, The Capitol
Washington, DC 20510

Dear Congressional Leaders:

We, the undersigned, representing hundreds of thousands of Americans, want to thank you for your commitment to preserving the rights secured in the First Amendment of the Constitution, specifically the rights to freedom of religion and speech. Unfortunately, since its passage, the Johnson Amendment has effectively squelched both of those rights in the context of activities that could be construed by the IRS as on behalf of or in opposition to a candidate for public office. That is why we support the Free Speech Fairness Act of 2016 (H.R. 781, S. 264 “Fairness Act”), introduced by Whip Steve Scalise (R-La.) and Representative Jody Hice (R-Ga.), and by Senator James Lankford (R-Okla.) to protect the speech and religious freedom rights of 501(c)(3) organizations and their leaders. We encourage you to prioritize hearings and votes on this important bill.

Under Section 501(c)(3) of the IRS code, tax exempt organizations, including churches, may not engage in any activity that might be interpreted as directly or indirectly participating in a campaign on behalf of or in opposition to a candidate for public office, including handing out literature. The Johnson amendment changed the tax code in 1954 without any debate, and is still restricting the free speech of churches, religious institutions, and other tax exempt organizations today.

Not only is it unconstitutional, but the Johnson Amendment has been inconsistently enforced by the IRS causing many non-profits confusion over how and when they may speak about political issues and candidates. In fact, on numerous occasions, the IRS has initiated investigations of tax exempt organizations without imposing penalties, or has imposed penalties only to later reimburse the fines. These inconsistencies have had the effect of significantly chilling the freedom to believe and speak that is protected by the First Amendment to the Constitution.

For the last decade, many churches have participated in Pulpit Freedom Sunday and have spoken from the pulpit on political matters. They in turn have sent their sermons to the IRS to elicit a response and a court challenge of the Johnson Amendment. The IRS has not investigated these churches but its guidance has not changed and churches are left in limbo. In addition, every year, organizations hostile to religious liberty threaten churches with letters promising to report them to the IRS, which has also contributed to the stifling of speech under the Johnson Amendment.

In order for the free speech rights of pastors and 501(c)(3) leaders to be restored, the Fairness Act provides for limited political activity that 1) is made in the ordinary course of the 501(c)(3) organization’s regular and customary activities, so long as those activities carry out the

organization's tax exempt purpose, and 2) does not incur more than de minimis incremental costs. Thus, this legislation provides for speech without allowing tax exempt organizations to purchase political ads for or against a candidate for public office.

Passage of the Fairness Act is necessary to restore the free speech and freedom of religion rights of America's pastors and churches and to remove the role of the IRS in chilling free speech. We urge you to support the Fairness Act.

Sincerely,

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Family Research Council

Michael Farris
President, CEO, and General Counsel
Alliance Defending Freedom

Gary L. Bauer
President
American Values

Mathew D. Staver, Esq.
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