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Religious Liberty Commission  
Dan Patrick, Lt. Governor of Texas – Chair  
Dr. Ben Carson – Vice Chair  
Office of the Associate Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

### **PUBLIC COMMENT – Report of the Religious Liberty Commission – Public Citizen**

Public Citizen submits these comments on the recommendations of the Religious Liberty Commission as expressed in its report issued on June 26, 2026.

The Religious Liberty Commission was established by Executive Order 14291 on May 1, 2025, as a federal advisory entity within the Department of Justice. Its function is to advise the White House on religious policies.

The Commission released a report on June 26, 2026, providing 12 religious policy recommendations for the White House and Congress to consider. Some of the recommendations are reasonable steps to minimize religious intolerance. Others seek to chip away at the long-held principal of “separation of church and state.” One recommendation is an egregious proposal to politicize churches and other 501(c)(3) charity organizations by eliminating what is known as the “Johnson Amendment” (JA).

Public Citizen submits these comments in strong opposition to eliminating the Johnson Amendment.

### **THE JOHNSON AMENDMENT**

In 1954, U.S. Sen. Lyndon Johnson (D-TX) proposed an amendment to the tax code that limits tax-exempt status to organizations that refrain from participating in any political campaign on behalf of (or in opposition to) candidates for public office, including endorsements or publishing campaign statements. The amendment was agreed to without debate and was included in the Internal Revenue Code of 1954. The provision – known as the “Johnson Amendment” – was considered non-controversial at the time.

The amendment is not offered as a restriction on speech rights. Instead, it is provided as a condition for obtaining the benefit of tax-exempt status. A 501(c)(3) organization is **tax exempt**,

and its donors may receive a **tax deduction** for their contributions. Section 501(c)(3) of the Internal Revenue Code describes organizations which may be exempt from federal income tax as follows:

*“(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”*

Churches are generally considered charitable institutions under the laws and regulations of Section 501(c)(3) of the tax code, including the Johnson Amendment.

There have been few legal challenges to the Johnson Amendment, and the courts have consistently upheld the constitutionality of the amendment largely based on the grounds that tax exemption under §501(c)(3) of the tax code is a privilege and not a right. Any organizations, including churches, wishing to participate in political campaigns may do so under a different tax status.

The most often cited case on this issue is *Branch Ministries*. This involved the sole case in which the IRS revoked the tax status of a church because of violating the Johnson Amendment. During the 1992 presidential election, Branch Ministries, a tax-exempt church, placed full-page advertisements in two national newspapers in which it urged Christians not to vote for then-presidential candidate Bill Clinton because of his positions on certain moral issues. “Bill Clinton is promoting policies that are in rebellion to God’s laws.” The ads also said, “Tax-deductible contributions for this advertisement gladly accepted.” The IRS revoked the tax-exempt status of the church that paid for the ads. *Branch Ministries v. Commissioner*, [211 F.3d 137](#)(D.C. Cir. 2000). See also *Regan v. Taxation With Representation of Washington*, [461 U.S. 540](#) (1983).

Generally, the IRS has been reluctant to enforce the Johnson Amendment, frequently turning a blind eye to blatant violations and exempting political activities by church leaders outside normal church proceedings. Though the IRS has revoked the tax status of a church because of political activities only once, the IRS has conducted numerous investigations of churches and other charities for potential violations of the Johnson Amendment.

### **RECENT CHALLENGES TO THE JOHNSON AMENDMENT**

On May 4, 2017, President Trump signed the “[Presidential Executive Order Promoting Free Speech and Religious Liberty](#).” The executive order did not repeal the Johnson Amendment – a law cannot be repealed by executive order – but it did signal to the Department of Treasury and

the IRS that enforcement of the law should not be enforced with respect to churches: “churches should not be found guilty of implied endorsements where secular organizations would not be.”

On August 28, 2024, four religious organizations – all evangelical – filed a lawsuit challenging the constitutionality of the Johnson Amendment on behalf of all 501(c)(3) organizations, not just churches. The National Religious Broadcasters, First Baptist Church of Waskom, Sand Springs Church of Athens, Texas, and Intercessors for America were plaintiffs in the lawsuit against the IRS and its Commissioner Billy Long in U.S. District Court in the Eastern District of Texas. *National Religious Broadcasters v. Billy Long*, Docket no: 6:24-cv-00311-JCB (E.D. Texas) (2024).

On July 7, 2025, the two plaintiff churches and IRS Commissioner Billy Long, appointed to the position by Trump, filed a motion asking the court to render a consent decree stating that the Johnson Amendment does not apply to political activity by churches under certain conditions. The IRS proposal explicitly would have allowed endorsements of candidates from the pulpit under “customary channels of communication.” Customary channels of communication remained undefined but presumably would include broadcast media for churches that use such communications.

The [consent decree](#) proposed by the IRS read in part:

*“When a house of worship in good faith speaks to its congregation, through its customary channels of communication on matters of faith in connection with religious services, concerning electoral politics viewed through the lens of religious faith, it neither ‘participate[s]’ nor ‘intervene[s]’ in a ‘political campaign,’ within the ordinary meaning of those words. To ‘participate’ in a political campaign is ‘to take part’ in the political campaign, and to ‘intervene’ in a political campaign is ‘to interfere with the outcome or course’ of the political campaign. Bona fide communications internal to a house of worship, between the house of worship and its congregation, in connection with religious services, do neither of those things, any more than does a family discussion concerning candidates. Thus, communications from a house of worship to its congregation in connection with religious services through its usual channels of communication on matters of faith do not run afoul of the Johnson Amendment as properly interpreted.”*

The U.S. District Court for the Eastern District of Texas ruled that the court is barred from approving the IRS consent decree on March 31, 2026. The [ruling](#) asserted that the Tax Anti-Injunction Act barred the courts from any jurisdiction over any “suit for the purpose of restraining the assessment or collection of any tax” and dismissed the case.

The Religious Liberty Commission then picked up the issue in its recent report and recommended that Congress repeal the Johnson Amendment altogether for all 501(c)(3) nonprofit organizations, including churches. That is the issue currently under consideration.

## **AN UNWANTED PROPOSAL**

Even the original IRS consent decree to roll back the Johnson Amendment for churches was greeted largely with skepticism, including from the bulk of the religious community. According to a 2024 [Lifeway Research](#) poll, Americans, like pastors, are more likely to be opposed to in-church endorsements. Only three in 10 U.S. adults (29 percent) believe pastors publicly endorsing candidates for public office during a church service is appropriate. Three in five (60 percent) disagree, including 42 percent who strongly disagree, and 11 percent aren't sure. The same survey found little political activity by pastors themselves. Few pastors endorsed candidates during a church service in recent elections (2 percent), and just 25 percent say they had endorsed a candidate for public office outside their church role. A different poll by [PRRI](#) found that opposition to church endorsement of candidates has remained the same over time. In 2023, three in four Americans (75 percent) opposed this idea, while only 20 percent favored it. These views closely mirror those from 2017, when 71 percent were in opposition and 22 percent were in favor. The trend is similar among church-going members.

The churches that sought greater political involvement have always been few and far between. Most churches and their congregations would rather focus on religion and morality, not politics. In the latest case of the proposed IRS consent decree, it was advocated by just a few Evangelical churches, mostly supportive of Donald Trump.

The [National Council of Nonprofits](#) a network of more than 25,000 nonprofit organizations, released a statement opposing the proposed repeal legislation. Independent Sector, a coalition of nonprofits, foundations, and corporations has also stated their opposition to the proposal to repeal the Johnson Amendment. Numerous efforts to preserve the protections of the Johnson Amendment include a letter in support of nonprofit nonpartisanship signed by more than 5,500 organizations, a Faith Voices letter signed by more than 4,300 religious leaders, a letter that more than [100 denominations](#) and major religious organizations signed, and a letter from the National Association of State Charity Officials.

There have also been concerns from clergy and lay Christians about the potential that a total repeal would cause churches to transform into partisan super PACs.

The Catholic Church does not allow church funds to be spent on campaigns or allow endorsements of candidates, regardless of the law. It is felt that repeal of the Johnson Amendment would result in dividing congregations. Certainly, the nonprofit community as a whole does not want the Johnson Amendment to be scaled back or eliminated.

## **CONCLUSION: REPEAL OF THE JOHNSON AMENDMENT IS NEITHER PRUDENT NOR POPULAR**

Efforts to repeal the Johnson Amendment have been criticized for a number of reasons. One concern is that political campaign contributions funneled through 501(c)(3) organizations would be tax-deductible for donors and that such contributions would not be disclosed since 501(c)(3) charities are exempt from public reporting requirements. Under that critique, repeal would have the potential of creating a mechanism where political contributions could be made without regard to other campaign financing and disclosure laws.

Another reason is that taxpayer dollars would be used by politically active charities to promote or attack candidates. Given the lack of disclosure and the benefit of using taxpayer dollars, political operatives would come out of the woodwork to set up 501(c)(3) campaign organizations and non-profit super PACs.

The non-profit community, including churches, would likely lose a great deal of credibility and public support and become tainted by politics. Non-profit organizations in general, and churches in particular, realize the swamp in which they would find themselves once they venture into partisan politics. Most do not want to go there.

For these reasons and more, Public Citizen sternly opposes any effort to weaken or eliminate the Johnson Amendment.

Sincerely,

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