

# Fact Sheet on Johnson Amendment: Trump Foundation Litigation and Pending Legislation

## Why is the Johnson Amendment back in the news today?

- The New York Attorney General alleges that the Trump Foundation violated a longstanding provision in Section 501(c)(3) of the federal tax code that some refer to as the “Johnson Amendment.”
- The Trump Administration has repeatedly tried to gut the Johnson Amendment and, on June 13, the House Appropriations Committee approved an extraneous policy rider to do just that.

## What does the Johnson Amendment do?

- The Johnson Amendment provides that 501(c)(3) organizations – charitable nonprofits, houses of worship, and foundations – in exchange for the privilege of receiving donations that are tax-deductible to the donors, may not support or oppose candidates for elected office. Thus, to keep that special privilege, 501(c)(3) organizations may not endorse candidates or use any of their assets to support or oppose specific candidates. (Sources: [IRS website](#) and [Internal Revenue Code](#))

## What DOESN'T the Johnson Amendment do?

- Leaders of 501(c)(3) organizations can support candidates in their private capacity; they just can't use their official positions or organizational resources. (Same is true for public employees via the Hatch Act.)
- Leaders of 501(c)(3) organizations can still speak out about *issues* in their official capacity – just not candidates.

## Why have 501(c)(3) organizations united to keep the protections of the Johnson Amendment?

- This provision protects 501(c)(3) organizations from the rancor of partisan politics and being harassed by politicians and their operatives seeking endorsements; endorsing specific candidates could split congregations and divide boards and members of nonprofit organizations
- This anti-corruption law protects taxpayers and voters. Congress' own nonpartisan Joint Committee on Taxation projected that language approved last year by the House Ways & Means Committee **would cost taxpayers \$2.1 billion** as people redirected their political donations. ([See testimony of the Chief of Staff of Congress' own nonpartisan Joint Committee on Taxation. 00:54:39 – 00:57:07](#))
  - Political donors would redirect their contributions away from candidate campaign committees where they are reported and not tax deductible, to instead funnel them through churches and charities where they would not be reported and would be – for the first time in history – tax deductible.
  - Churches don't have to register with the IRS and they don't have to file informational returns about donations and expenditures like other nonprofits have to do, so billions of dollars in campaign contributions could be funneled through pretend pop-up “churches” created just before elections that disappear just after elections, making tax-deductible political donations completely untraceable.
- The Johnson Amendment protects the integrity of 501(c)(3) organizations; people contribute time and money to churches and charities for their missions, and if they see their donations rerouted to support political candidates, they will stop giving everywhere.

## What is the historical background of the Johnson Amendment?

- It is called the “Johnson Amendment” because it was proposed by then-Minority Leader Lyndon Johnson in 1954; it was adopted without controversy by a Republican majority in Congress, signed into law by a Republican (Eisenhower), and strengthened in 1987 in a law signed by another Republican (Reagan).
- Candidates Trump and Pence, working with Pat Robertson, Jerry Falwell, Jr., and other vocal evangelists made repeal of the Johnson Amendment a frequent campaign rallying cry for the base. They continue to raise it, including in [two separate](#) speeches by Vice President Pence on June 13 and 14, respectively.
- Since 2017, several attempts to weaken or repeal the Johnson Amendment have been made:
  - Via [Executive Order](#) (which DOJ later conceded in litigation is ineffective)
  - Three bills were introduced in Congress, one to totally repeal it and the others to substantially weaken it
  - The House passed a rider to weaken it in the first spending bill it passed last year (the bill was DOA in the Senate)
  - The House Ways & Means Committee included language in its tax reform bill to significantly weaken it (the bill that the Joint Committee on Taxation projected *would cost taxpayers \$2.1 billion*); the full

- House passed anti-Johnson Amendment language as part of its initial tax reform bill (language removed by the Senate Parliamentarian for violating the rules on a bill passed via reconciliation)
- On June 13, the House Appropriations Committee folded an effective partial repeal into a spending bill (Section 112 of the [FSGG Appropriations bill](#)) on a party-line vote

**What groups have united to protect/retain the longstanding Johnson Amendment?**

- **State law enforcement officials**
  - [National Association of State Charity Officials](#) (taking a position on pending legislation for only the third time in its history)
  - [“Congress, defend the common law and common sense of nonpartisanship”](#)
- **Religious Community**
  - [100+ religious and denominational organizations](#) (with not a single denomination coming out in favor of repeal)
  - [89 percent of evangelical pastors.](#)
  - [More than 4,500 faith leaders](#) (Faith Voices letter)
  - [“There’s a Wolf in Sheep’s Clothing Hiding in the GOP Tax Bill”](#)
- **Nonprofit and Foundation Community**
  - [More than 5,800 charitable nonprofits and foundations](#) (Community Letter in Support of Nonpartisanship)
  - [“Don’t Tread on Us: Keep Toxic Partisanship Away from Nonprofit Missions”](#)
  - [“Permanently Driving Off Donors”](#)
  - [“Keep Partisan Politics Out of the Nonprofit Sector”](#)
- **Public: 72 percent of registered voters**

For additional information – including collections of editorials, op-eds, and statements – see <https://www.councilofnonprofits.org/trends-policy-issues/protecting-nonprofit-nonpartisanship>.

Contact: Rick Cohen, [rcohen@councilofnonprofits.org](mailto:rcohen@councilofnonprofits.org), (202) 962-0322

