

106TH CONGRESS  
1ST SESSION

# S. 1597

To amend the Internal Revenue Code of 1986 to provide enhanced tax incentives for charitable giving, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1999

Mr. KERREY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide enhanced tax incentives for charitable giving, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Enhanced Incentives  
5       for Charitable Giving Act of 1999”.

6       **SEC. 2. CHARITABLE CONTRIBUTIONS TO CERTAIN LOW IN-**  
7                       **COME SCHOOLS MAY BE MADE IN NEXT TAX-**  
8                       **ABLE YEAR.**

9       (a) IN GENERAL.—Section 170(f) of the Internal  
10      Revenue Code of 1986 (relating to disallowance of deduc-

1 tion in certain cases and special rules) is amended by add-  
 2 ing at the end the following new paragraph:

3 “(10) TIME WHEN CERTAIN CONTRIBUTIONS  
 4 DEEMED MADE.—

5 “(A) IN GENERAL.—At the election of the  
 6 taxpayer, a qualified low-income school con-  
 7 tribution shall be deemed to be made on the  
 8 last day of the preceding taxable year if the  
 9 contribution is made on account of such taxable  
 10 year and is made not later than the time pre-  
 11 scribed by law for filing the return for such tax-  
 12 able year (not including extensions thereof).  
 13 The election may be made at the time of the fil-  
 14 ing of the return for such taxable year, and shall  
 15 be made and substantiated in such manner as  
 16 the Secretary shall by regulations prescribe.

17 “(B) QUALIFIED LOW-INCOME SCHOOL  
 18 CONTRIBUTION.—For purposes of subpara-  
 19 graph (A), the term ‘qualified low-income school  
 20 contribution’ means a charitable contribution to  
 21 an educational organization described in sub-  
 22 section (b)(1)(A)(ii)—

23 “(i) which is a public, private, or sec-  
 24 tarian school which provides elementary or

1 secondary education (through grade 12),  
 2 as determined under State law, and

3 “(ii) with respect to which at least 50  
 4 percent of the students attending such  
 5 school are eligible for free or reduced-cost  
 6 lunches under the school lunch program es-  
 7 tablished under the National School Lunch  
 8 Act.”.

9 (b) EFFECTIVE DATE.—The amendment made by  
 10 this section shall apply to taxable years beginning after  
 11 December 31, 1999.

12 **SEC. 3. DEDUCTION FOR PORTION OF CHARITABLE CON-**  
 13 **TRIBUTIONS TO BE ALLOWED TO INDIVID-**  
 14 **UALS WHO DO NOT ITEMIZE DEDUCTIONS.**

15 (a) IN GENERAL.—Section 170 of the Internal Rev-  
 16 enue Code of 1986 (relating to charitable, etc., contribu-  
 17 tions and gifts) is amended by redesignating subsection  
 18 (m) as subsection (n) and by inserting after subsection  
 19 (l) the following new subsection:

20 “(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING  
 21 DEDUCTIONS.—In the case of an individual who does not  
 22 itemize his deductions for the taxable year, there shall be  
 23 taken into account as a direct charitable deduction under  
 24 section 63 an amount equal to the lesser of—

1 “(1) the amount allowable as a deduction under  
2 subsection (a) for the taxable year, or

3 “(2) \$50 (\$100 in the case of a joint return).”.

4 (b) DIRECT CHARITABLE DEDUCTION.—

5 (1) IN GENERAL.—Subsection (b) of section 63  
6 of the Internal Revenue Code of 1986 is amended by  
7 striking “and” at the end of paragraph (1), by strik-  
8 ing the period at the end of paragraph (2) and in-  
9 serting “, and”, and by adding at the end the fol-  
10 lowing new paragraph:

11 “(3) the direct charitable deduction.”.

12 (2) DEFINITION.—Section 63 of such Code is  
13 amended by redesignating subsection (g) as sub-  
14 section (h) and by inserting after subsection (f) the  
15 following new subsection:

16 “(g) DIRECT CHARITABLE DEDUCTION.—For pur-  
17 poses of this section, the term ‘direct charitable deduction’  
18 means that portion of the amount allowable under section  
19 170(a) which is taken as a direct charitable deduction for  
20 the taxable year under section 170(m).”.

21 (3) CONFORMING AMENDMENT.—Subsection (d)  
22 of section 63 of such Code is amended by striking  
23 “and” at the end of paragraph (1), by striking the  
24 period at the end of paragraph (2) and inserting “,

1 and”, and by adding at the end the following new  
 2 paragraph:

3 “(3) the direct charitable deduction.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 1999.

7 **SEC. 4. INCREASE IN LIMIT ON CHARITABLE CONTRIBU-**  
 8 **TIONS AS PERCENTAGE OF AGI.**

9 (a) IN GENERAL.—

10 (1) INDIVIDUAL LIMIT.—Section 170(b)(1) of  
 11 the Internal Revenue Code of 1986 (relating to per-  
 12 centage limitations) is amended—

13 (A) by striking “50 percent” in subpara-  
 14 graph (A) and inserting “the 75 percent”, and

15 (B) by striking “30 percent” each place it  
 16 appears in subparagraph (C) and inserting “50  
 17 percent”.

18 (2) CORPORATE LIMIT.—Section 170(b)(2) of  
 19 such Code is amended by striking “10 percent” and  
 20 inserting “20 percent”.

21 (b) CONFORMING AMENDMENTS.—Section  
 22 170(d)(1)(A) of the Internal Revenue Code of 1986 is  
 23 amended by striking “50 percent” each place it appears  
 24 and inserting “75 percent”.

1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 1999.

4       **SEC. 5. LIMITED EXCEPTION TO EXCESS BUSINESS HOLD-**  
 5                               **INGS RULE.**

6       (a) IN GENERAL.—Section 4943(c)(2) of the Internal  
 7 Revenue Code of 1986 (relating to permitted holdings in  
 8 a corporation) is amended by adding at the end the fol-  
 9 lowing new subparagraph:

10                               “(D) RULE WHERE VOTING STOCK IS PUB-  
 11                               LICLY TRADED.—

12                               “(i) IN GENERAL.—If—

13                                       “(I) the private foundation and  
 14                                       all disqualified persons together do  
 15                                       not own more than the 49 percent of  
 16                                       the voting stock and not more than  
 17                                       the 49 percent in value of all out-  
 18                                       standing shares of all classes of stock  
 19                                       of an incorporated business enter-  
 20                                       prise,

21                                       “(II) the voting stock owned by  
 22                                       the private foundation and all dis-  
 23                                       qualified persons together is stock for  
 24                                       which market quotations are readily

1 available on an established securities  
2 market, and

3 “(III) the requirements of clause  
4 (ii) are met,

5 then subparagraph (A) shall be applied by  
6 substituting ‘49 percent’ for ‘20 percent’.

7 “(ii) REQUIREMENTS TO BE MET.—  
8 The requirements of this clause are met  
9 during any taxable year—

10 “(I) in which disqualified persons  
11 with respect to the private foundation  
12 do not receive compensation (as an  
13 employee or otherwise) from the cor-  
14 poration or engage in any act with  
15 such corporation which would con-  
16 stitute self-dealing within the meaning  
17 of section 4941(d) if such corporation  
18 were a private foundation and if each  
19 such disqualified person were a dis-  
20 qualified person with respect to such  
21 corporation,

22 “(II) in which disqualified per-  
23 sons with respect to such private  
24 foundation do not own in the aggre-  
25 gate more than 2 percent of the vot-

1 ing stock and not more than 2 percent  
2 in value of all outstanding shares of  
3 all classes of stock in such corpora-  
4 tion, and

5 “(III) for which there is sub-  
6 mitted with the annual return of the  
7 private foundation for such year (filed  
8 within the time prescribed by law, in-  
9 cluding extensions, for filing such re-  
10 turn) a certification which is signed  
11 by all the members of an audit com-  
12 mittee of the Board of Directors of  
13 such corporation consisting of a ma-  
14 jority of persons who are not disquali-  
15 fied persons with respect to such pri-  
16 vate foundation and which certifies  
17 that such members, after due inquiry,  
18 are not aware that any disqualified  
19 person has received compensation  
20 from such corporation or has engaged  
21 in any act with such corporation that  
22 would constitute self-dealing within  
23 the meaning of section 4941(d) if  
24 such corporation were a private foun-  
25 dation and if each such disqualified



1 person were a disqualified person with  
2 respect to such corporation.

3 For purposes of this clause, the fact that  
4 a disqualified person has received com-  
5 pensation from such corporation or has en-  
6 gaged in any act with such corporation  
7 which would constitute self-dealing within  
8 the meaning of section 4941(d) shall be  
9 disregarded if such receipt or act is cor-  
10 rected not later than the due date (not in-  
11 cluding extensions thereof) for the filing of  
12 the private foundation's annual return for  
13 the year in which the receipt or act occurs  
14 and on the terms that would be necessary  
15 to correct such receipt or act and thereby  
16 avoid imposition of tax under section  
17 4941(b).”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to foundations established by be-  
20 quest of decedents dying after December 31, 1999.

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