

106TH CONGRESS  
1ST SESSION

# S. 997

To assist States in providing individuals a credit against State income taxes or a comparable benefit for contributions to charitable organizations working to prevent or reduce poverty and protect and encourage donations to charitable organizations, to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide government assistance and the distribution of such assistance, to allow such organizations to accept such funds to provide such assistance without impairing the religious character of such organizations, to provide for tax-free distributions from individual retirement accounts for charitable purposes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 1999

Mr. SANTORUM (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BROWNBACK, Mr. COVERDELL, Mr. DEWINE, Mrs. HUTCHISON, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To assist States in providing individuals a credit against State income taxes or a comparable benefit for contributions to charitable organizations working to prevent or reduce poverty and protect and encourage donations to charitable organizations, to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide government assistance and the distribution of such assistance, to allow such organi-

zations to accept such funds to provide such assistance without impairing the religious character of such organizations, to provide for tax-free distributions from individual retirement accounts for charitable purposes, 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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
 5       “Charity Empowerment Act of 1999”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
 7       this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ASSISTANCE TO STATES IN PROVIDING CHARITY TAX CREDITS**

Sec. 101. Authority to use certain Federal grant funds for State charity tax credit.

Sec. 102. Definitions.

Sec. 103. Study and report.

Sec. 104. Effective date.

**TITLE II—BUDGET OFFSET**

Sec. 201. Reduction of earned income credit for individuals without children.

**TITLE III—TORT REFORMS RELATING TO CHARITABLE CONTRIBUTIONS**

Sec. 301. Definitions.

Sec. 302. Liability.

Sec. 303. Exceptions.

Sec. 304. Superseding provision.

Sec. 305. Election of State regarding nonapplicability.

Sec. 306. Effective date.

**TITLE IV—CHARITABLE CHOICE EXPANSION ACT**

Sec. 401. Provision of assistance under government programs by religious organizations.

**TITLE V—TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES**

Sec. 501. Tax-free distributions from individual retirement accounts for charitable purposes.

1 **TITLE I—ASSISTANCE TO**  
 2 **STATES IN PROVIDING CHAR-**  
 3 **ITY TAX CREDITS**

4 **SEC. 101. AUTHORITY TO USE CERTAIN FEDERAL GRANT**  
 5 **FUNDS FOR STATE CHARITY TAX CREDIT.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
 7 sion of law, if there is in effect under State law a charity  
 8 tax credit, then the State may use for any purpose not  
 9 more than 50 percent of each total amount paid to the  
 10 State during the fiscal year under each of the provisions  
 11 of law specified in subsection (d).

12 (b) LIMITATION.—The aggregate amount a State  
 13 may use under subsection (a) during a fiscal year shall  
 14 not exceed an amount equal to 100 percent of the revenue  
 15 loss of the State during the fiscal year that is attributable  
 16 to the charity tax credit, as determined by the Secretary  
 17 of the Treasury without regard to any such revenue loss  
 18 occurring before January 1, 2000.

19 (c) CERTAIN CREDIT AMOUNTS TREATED AS STATE  
 20 PAYMENT FOR TEMPORARY ASSISTANCE FOR NEEDY  
 21 FAMILIES.—For purposes of title IV of the Social Security  
 22 Act, an amount equal to the excess (if any) of—

23 (1) the amount of the revenue loss of a State  
 24 (not to exceed 100 percent) during a fiscal year that

1 is attributable to the charity tax credit, as deter-  
2 mined under subsection (b); over

3 (2) the aggregate amount used by the State  
4 under subsection (a) during the fiscal year,  
5 shall be treated as an amount used during the fiscal year  
6 by the State to carry out a State program funded under  
7 part A of such title.

8 (d) PROVISIONS OF LAW.—The provisions of law  
9 specified in this subsection are the following:

10 (1) Paragraphs (1) through (4) of section  
11 403(a) of the Social Security Act (42 U.S.C.  
12 603(a)).

13 (2) The Child Care and Development Block  
14 Grant Act of 1990 (42 U.S.C. 9858–9858q) and  
15 section 418 of the Social Security Act (42 U.S.C.  
16 618).

17 (3) Sections 2002 and 2007 of the Social Secu-  
18 rity Act (42 U.S.C. 1397a and 1397f).

19 (4) The Community Services Block Grant Act  
20 (42 U.S.C. 9901–9912).

21 (5) The Low-Income Home Energy Assistance  
22 Act of 1981 (42 U.S.C. 8621 et seq.).

23 (6) The Job Training Partnership Act (29  
24 U.S.C. 1501 et seq.).

1 (7) Title I of the Housing and Community De-  
 2 velopment Act of 1974 (42 U.S.C. 5301 et seq.).

3 **SEC. 102. DEFINITIONS.**

4 (a) CHARITY TAX CREDIT.—For purposes of this  
 5 title, the term “charity tax credit” means a nonrefundable  
 6 credit against State income tax (or, in the case of a State  
 7 which does not impose an income tax, a comparable ben-  
 8 efit)—

9 (1) which is allowable only to an individual for  
 10 a cash contribution to a qualified charity; and

11 (2) of which the maximum amount allowable to  
 12 an individual for any taxable year does not exceed  
 13 \$50 (\$100 in the case of a joint or combined return  
 14 of individuals who are married to each other) in the  
 15 first year the credit is available and such amount is  
 16 increased by not more than \$50 (\$100 in the case  
 17 of a joint or combined return of individuals who are  
 18 married to each other) for each subsequent year (but  
 19 not to exceed \$250 (\$500, if applicable)).

20 (b) QUALIFIED CHARITY.—For purposes of this  
 21 title—

22 (1) IN GENERAL.—The term “qualified charity”  
 23 means any organization—

24 (A) which is described in section 501(c)(3)  
 25 of the Internal Revenue Code of 1986 and ex-

empt from tax under section 501(a) of such Code;

(B) which is certified by the appropriate State authority as meeting the requirements of paragraphs (3) and (4); and

(C) which annually reports the information required to be furnished under paragraph (5) and if such organization is otherwise required to file a return under section 6033 of such Code, which elects to treat the information required to be furnished under paragraph (5) as the information specified in section 6033(b) of such Code.

(2) CERTAIN CONTRIBUTIONS TO COLLECTION ORGANIZATIONS TREATED AS CONTRIBUTIONS TO QUALIFIED CHARITY.—

(A) IN GENERAL.—A contribution to a collection organization shall be treated as a contribution to a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

(B) COLLECTION ORGANIZATION.—The term “collection organization” means an organization described in section 501(c)(3) of the In-

ternal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code—

(i) which solicits and collects gifts and grants which, by agreement, are distributed to qualified charities described in paragraph (1);

(ii) which distributes to qualified charities described in paragraph (1) at least 90 percent of the gifts and grants received that are designated for such qualified charities; and

(iii) which meets the requirements of paragraph (6).

(3) CHARITY MUST PRIMARILY ASSIST POOR INDIVIDUALS.—

(A) IN GENERAL.—An organization meets the requirements of this paragraph only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget)

1 in order to prevent or alleviate poverty among  
 2 such individuals and families.

3 (B) NO RECORDKEEPING IN CERTAIN  
 4 CASES.—An organization shall not be required  
 5 to establish or maintain records with respect to  
 6 the incomes of individuals and families for pur-  
 7 poses of subparagraph (A) if such individuals or  
 8 families are members of groups which are gen-  
 9 erally recognized as including substantially only  
 10 individuals and families described in subpara-  
 11 graph (A).

12 (C) FOOD AID AND HOMELESS SHEL-  
 13 TERS.—Except as otherwise provided by the ap-  
 14 propriate State authority, for purposes of sub-  
 15 paragraph (A), services to individuals in the  
 16 form of—

17 (i) donations of food or meals; or

18 (ii) temporary shelter to homeless in-  
 19 dividuals,

20 shall be treated as provided to individuals de-  
 21 scribed in subparagraph (A) if the location and  
 22 operation of such services are such that the  
 23 service provider may reasonably conclude that  
 24 the beneficiaries of such services are predomi-



1 nantly individuals described in subparagraph  
2 (A).

3 (4) MINIMUM EXPENSE REQUIREMENT.—

4 (A) IN GENERAL.—An organization meets  
5 the requirements of this paragraph only if the  
6 appropriate State authority reasonably expects  
7 that the annual poverty program expense of  
8 such organization will not be less than 75 per-  
9 cent of the annual aggregate expenses of such  
10 organization.

11 (B) POVERTY PROGRAM EXPENSE.—For  
12 purposes of subparagraph (A)—

13 (i) IN GENERAL.—The term “poverty  
14 program expense” means any expense paid  
15 or incurred in providing program services  
16 described in paragraph (3).

17 (ii) EXCEPTIONS.—Such term shall  
18 not include—

19 (I) any management or general  
20 expense;

21 (II) any expense for the purpose  
22 of influencing legislation (as defined  
23 in section 4911(d) of the Internal  
24 Revenue Code of 1986);

1 (III) any expense for the purpose  
2 of fundraising;

3 (IV) any expense for a legal serv-  
4 ice provided on behalf of any indi-  
5 vidual described in paragraph (3); and

6 (V) any expense which consists of  
7 a payment to an affiliate of the orga-  
8 nization.

9 (5) REPORTING REQUIREMENT.—The informa-  
10 tion required to be furnished under this paragraph  
11 is—

12 (A) each category of services (including  
13 food, shelter, education, substance abuse, job  
14 training, or otherwise) which constitutes the  
15 predominant activities of the organization; and

16 (B) the percentages determined by dividing  
17 the categories of the organization's expenses for  
18 the year by the total expenses of the organiza-  
19 tion for the year, including—

20 (i) program services;

21 (ii) management expenses;

22 (iii) general expenses;

23 (iv) fundraising expenses; and

24 (v) payments to affiliates.

1           (6) ADDITIONAL REQUIREMENTS FOR SOLICITA-  
2           TION ORGANIZATIONS.—The requirements of this  
3           paragraph are met if the organization—

4                   (A) maintains separate accounting for rev-  
5                   enues and expenses; and

6                   (B) makes available to the public adminis-  
7                   trative and fundraising costs and information  
8                   regarding any organization receiving funds from  
9                   the organization and the amount of such funds.

10          (7) RECOMMENDATIONS.—It is recommended,  
11          but not required, that—

12                   (A) the definition of “qualified charity” be  
13                   further limited under State law to an  
14                   organization—

15                           (i) which has been operating for at  
16                           least 1 year or is controlled by, or operated  
17                           under the auspices of, an organization  
18                           which has been operating for at least 1  
19                           year; and

20                           (ii) with expenses for the purpose of  
21                           influencing legislation, litigation on behalf  
22                           of any individual described in paragraph  
23                           (3), voter registration, political organizing,  
24                           public policy advocacy, or public policy re-  
25                           search in an amount not in excess of 5

1                   percent of the total expenses of the organi-  
2                   zation;

3                   (B) except as provided in subsection  
4                   (a)(2), the amount of the charity tax credit be  
5                   equal to at least 50 percent and not more than  
6                   90 percent of the amount of the individual's  
7                   cash contribution to a qualified charity; and

8                   (C) contributions made not later than the  
9                   time prescribed by law for filing the return of  
10                  the State income tax for a taxable year (not in-  
11                  cluding extensions thereof) be treated as made  
12                  (at the taxpayer's election) on the last day of  
13                  such year.

14                  (8) SPECIAL RULE FOR STATES REQUIRING TAX  
15                  UNIFORMITY.—In the case of a State—

16                   (A) which has a constitutional requirement  
17                   of tax uniformity; and

18                   (B) which, as of December 31, 1997, im-  
19                   posed a tax on personal income with—

20                   (i) a single flat rate applicable to all  
21                   earned and unearned income (except inso-  
22                   far as any amount is not taxed pursuant to  
23                   tax forgiveness provisions); and

24                   (ii) no generally available exemptions  
25                   or deductions to individuals,

1 the requirement of subsection (a)(2) shall be treated  
 2 as met if the amount of the credit is limited to a  
 3 uniform percentage (but not greater than 25 per-  
 4 cent) of State personal income tax liability (deter-  
 5 mined without regard to credits).

6 (9) COORDINATION WITH FEDERAL CHARI-  
 7 TABLE CONTRIBUTION DEDUCTION.—The amount of  
 8 the deduction allowed under the Internal Revenue  
 9 Code of 1986 for contributions which are taken into  
 10 account in determining any charity tax credit shall  
 11 be reduced by the amount of such credit which is al-  
 12 lowed.

13 (c) STATE.—For purposes of this title, the term  
 14 “State” means each of the several States, the District of  
 15 Columbia, the Commonwealth of Puerto Rico, the Virgin  
 16 Islands, Guam, American Samoa, the Northern Mariana  
 17 Islands, any other territory or possession of the United  
 18 States.

19 **SEC. 103. STUDY AND REPORT.**

20 (a) STUDY.—The Comptroller General of the United  
 21 States shall conduct a study of the effects of the charity  
 22 tax credit under this title, including—

23 (1) the types of organizations which receive  
 24 contributions during the first year to which the cred-  
 25 it applies; and

1           (2) the types of services provided to the poor by  
2           such organizations.

3           (b) REPORT.—The Comptroller General shall report  
4 to Congress the results of such study, including—

5           (1) the geographical distribution of funding  
6           from charity tax credit contributions, and an anal-  
7           ysis of the information provided on the annual re-  
8           turns required under section 6033 of the Internal  
9           Revenue Code of 1986 with respect to qualified  
10          charities to determine if the broad categories of serv-  
11          ices provided to the poor (including food, shelter,  
12          education, substance abuse, job training, or other-  
13          wise) match the services that would otherwise be  
14          provided by Federal welfare program funds without  
15          the enactment of the reductions in the programs  
16          permitted by this legislation; and

17          (2) any recommendations for legislative  
18          changes.

19 **SEC. 104. EFFECTIVE DATE.**

20          This title shall take effect on January 1, 2000.

21 **TITLE II—BUDGET OFFSET**

22 **SEC. 201. REDUCTION OF EARNED INCOME CREDIT FOR IN-**  
23 **DIVIDUALS WITHOUT CHILDREN.**

24          (a) IN GENERAL.—The table in subparagraph (A) of  
25 section 32(b)(1) of the Internal Revenue Code of 1986 (re-

1 lating to percentages) is amended by striking the item re-  
 2 lating to no qualifying children and inserting the following:

“No qualifying children ..... 3.825 7.65.”

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 subsection (a) shall apply to taxable years beginning after  
 5 December 31, 2001.

## 6 **TITLE III—TORT REFORMS RE-** 7 **LATING TO CHARITABLE CON-** 8 **TRIBUTIONS**

### 9 **SEC. 301. DEFINITIONS.**

10 In this title:

11 (1) AIRCRAFT.—The term “aircraft” has the  
 12 meaning provided that term in section 40102(6) of  
 13 title 49, United States Code.

14 (2) BUSINESS ENTITY.—The term “business  
 15 entity” means a firm, corporation, association, part-  
 16 nership, consortium, joint venture, or other form of  
 17 enterprise.

18 (3) EQUIPMENT.—The term “equipment” in-  
 19 cludes mechanical equipment, electronic equipment,  
 20 and office equipment.

21 (4) FACILITY.—The term “facility” means any  
 22 real property, including any building, improvement,  
 23 or appurtenance.

1           (5) GROSS NEGLIGENCE.—The term “gross  
2 negligence” means voluntary and conscious conduct  
3 by a person with knowledge (at the time of the con-  
4 duct) that the conduct is likely to be harmful to the  
5 health or well-being of another person.

6           (6) INTENTIONAL MISCONDUCT.—The term  
7 “intentional misconduct” means conduct by a person  
8 with knowledge (at the time of the conduct) that the  
9 conduct is harmful to the health or well-being of an-  
10 other person.

11          (7) MOTOR VEHICLE.—The term “motor vehi-  
12 cle” has the meaning provided that term in section  
13 30102(6) of title 49, United States Code.

14          (8) NONPROFIT ORGANIZATION.—The term  
15 “nonprofit organization” means—

16               (A) any organization described in section  
17 501(c)(3) of the Internal Revenue Code of 1986  
18 and exempt from tax under section 501(a) of  
19 such Code; or

20               (B) any not-for-profit organization orga-  
21 nized and conducted for public benefit and op-  
22 erated primarily for charitable, civic, edu-  
23 cational, religious, welfare, or health purposes.

24          (9) STATE.—The term “State” means each of  
25 the several States, the District of Columbia, the



1 Commonwealth of Puerto Rico, the Virgin Islands,  
 2 Guam, American Samoa, the Northern Mariana Is-  
 3 lands, any other territory or possession of the  
 4 United States, or any political subdivision of any  
 5 such State, territory, or possession.

6 **SEC. 302. LIABILITY.**

7 (a) LIABILITY OF BUSINESS ENTITIES THAT DO-  
 8 NATE EQUIPMENT TO NONPROFIT ORGANIZATIONS.—

9 (1) IN GENERAL.—Subject to section 303, a  
 10 business entity shall not be subject to civil liability  
 11 relating to any injury or death that results from the  
 12 use of equipment donated by a business entity to a  
 13 nonprofit organization.

14 (2) APPLICATION.—This subsection shall apply  
 15 with respect to civil liability under Federal and State  
 16 law.

17 (b) LIABILITY OF BUSINESS ENTITIES PROVIDING  
 18 USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.—

19 (1) IN GENERAL.—Subject to section 303, a  
 20 business entity shall not be subject to civil liability  
 21 relating to any injury or death occurring at a facility  
 22 of the business entity in connection with a use of  
 23 such facility by a nonprofit organization, if—

24 (A) the use occurs outside of the scope of  
 25 business of the business entity;

1 (B) such injury or death occurs during a  
 2 period that such facility is used by the non-  
 3 profit organization; and

4 (C) the business entity authorized the use  
 5 of such facility by the nonprofit organization.

6 (2) APPLICATION.—This subsection shall  
 7 apply—

8 (A) with respect to civil liability under  
 9 Federal and State law; and

10 (B) regardless of whether a nonprofit orga-  
 11 nization pays for the use of a facility.

12 (c) LIABILITY OF BUSINESS ENTITIES PROVIDING  
 13 USE OF A MOTOR VEHICLE OR AIRCRAFT.—

14 (1) IN GENERAL.—Subject to section 303, a  
 15 business entity shall not be subject to civil liability  
 16 relating to any injury or death occurring as a result  
 17 of the operation of aircraft or a motor vehicle of a  
 18 business entity loaned to a nonprofit organization  
 19 for use outside of the scope of business of the busi-  
 20 ness entity, if—

21 (A) such injury or death occurs during a  
 22 period that such motor vehicle or aircraft is  
 23 used by a nonprofit organization; and

1 (B) the business entity authorized the use  
2 by the nonprofit organization of motor vehicle  
3 or aircraft that resulted in the injury or death.

4 (2) APPLICATION.—This subsection shall  
5 apply—

6 (A) with respect to civil liability under  
7 Federal and State law; and

8 (B) regardless of whether a nonprofit orga-  
9 nization pays for the use of the aircraft or  
10 motor vehicle.

11 (d) LIABILITY OF BUSINESS ENTITIES PROVIDING  
12 TOURS OF FACILITIES.—

13 (1) IN GENERAL.—Subject to section 303, a  
14 business entity shall not be subject to civil liability  
15 relating to any injury to, or death of an individual  
16 occurring at a facility of the business entity, if—

17 (A) such injury or death occurs during a  
18 tour of the facility in an area of the facility that  
19 is not otherwise accessible to the general public;  
20 and

21 (B) the business entity authorized the  
22 tour.

23 (2) APPLICATION.—This subsection shall  
24 apply—

1 (A) with respect to civil liability under  
2 Federal and State law; and

3 (B) regardless of whether an individual  
4 pays for the tour.

5 **SEC. 303. EXCEPTIONS.**

6 Section 302 shall not apply to an injury or death that  
7 results from an act or omission of a business entity that  
8 constitutes gross negligence or intentional misconduct, in-  
9 cluding any misconduct that—

10 (1) constitutes a crime of violence (as that term  
11 is defined in section 16 of title 18, United States  
12 Code) or act of international terrorism (as that term  
13 is defined in section 2331 of title 18, United States  
14 Code) for which the defendant has been convicted in  
15 any court;

16 (2) constitutes a hate crime (as that term is  
17 used in the Hate Crime Statistics Act (28 U.S.C.  
18 534 note));

19 (3) involves a sexual offense, as defined by ap-  
20 plicable State law, for which the defendant has been  
21 convicted in any court; or

22 (4) involves misconduct for which the defendant  
23 has been found to have violated a Federal or State  
24 civil rights law.

1 **SEC. 304. SUPERSEDING PROVISION.**

2 (a) IN GENERAL.—Subject to subsection (b) and sec-  
 3 tion 305, this title preempts the laws of any State to the  
 4 extent that such laws are inconsistent with this title, ex-  
 5 cept that this title shall not preempt any State law that  
 6 provides additional protection for a business entity for an  
 7 injury or death described in a subsection of section 302  
 8 with respect to which the conditions specified in such sub-  
 9 section apply.

10 (b) LIMITATION.—Nothing in this title shall be con-  
 11 strued to supersede any Federal or State health or safety  
 12 law.

13 **SEC. 305. ELECTION OF STATE REGARDING NONAPPLICA-**  
 14 **BILITY.**

15 (a) ELECTION OF STATE REGARDING NONAPPLICA-  
 16 BILITY.—A provision of this title shall not apply to any  
 17 civil action in a State court against a business entity in  
 18 which all parties are citizens of the State if such State  
 19 enacts a statute—

20 (1) citing the authority of this section;

21 (2) declaring the election of such State that  
 22 such provision shall not apply to such civil action in  
 23 the State; and

24 (3) containing no other provisions.

1 **SEC. 306. EFFECTIVE DATE.**

2       This title shall apply to injuries (and deaths resulting  
3 therefrom) occurring on or after the date of the enactment  
4 of this Act.

5 **TITLE IV—CHARITABLE CHOICE**  
6 **EXPANSION ACT**

7 **SEC. 401. PROVISION OF ASSISTANCE UNDER GOVERN-**  
8 **MENT PROGRAMS BY RELIGIOUS ORGANIZA-**  
9 **TIONS.**

10       Title XXIV of the Revised Statutes is amended by  
11 inserting after section 1990 (42 U.S.C. 1994) the fol-  
12 lowing:

13 **“SEC. 1994A. CHARITABLE CHOICE.**

14       “(a) **SHORT TITLE.**—This section may be cited as the  
15 ‘Charitable Choice Expansion Act of 1999’.

16       “(b) **PURPOSE.**—The purposes of this section are—

17               “(1) to prohibit discrimination against non-  
18 governmental organizations and certain individuals  
19 on the basis of religion in the distribution of govern-  
20 ment funds to provide government assistance and  
21 distribution of such assistance, under government  
22 programs described in subsection (c); and

23               “(2) to allow such organizations to accept such  
24 funds to provide such assistance to such individuals  
25 without impairing the religious character of such or-

1       ganizations or the religious freedom of such individ-  
2       uals.

3       “(c) RELIGIOUS ORGANIZATIONS INCLUDED AS NON-  
4 GOVERNMENTAL PROVIDERS.—For any program carried  
5 out by the Federal Government, or by a State or local  
6 government with Federal funds, in which the Federal,  
7 State, or local government is authorized to use nongovern-  
8 mental organizations, through contracts, grants, certifi-  
9 cates, vouchers, or other forms of disbursement, to provide  
10 assistance to beneficiaries under the program, the govern-  
11 ment shall consider, on the same basis as other nongovern-  
12 mental organizations, religious organizations to provide  
13 the assistance under the program, so long as the program  
14 is implemented in a manner consistent with the Establish-  
15 ment Clause of the first amendment to the Constitution.  
16 Neither the Federal Government nor a State or local gov-  
17 ernment receiving funds under such program shall dis-  
18 criminate against an organization that provides assistance  
19 under, or applies to provide assistance under, such pro-  
20 gram, on the basis that the organization has a religious  
21 character.

22       “(d) EXCLUSIONS.—As used in subsection (c), the  
23 term ‘program’ does not include activities carried out  
24 under—

1           “(1) Federal programs providing education to  
 2           children eligible to attend elementary schools or sec-  
 3           ondary schools, as defined in section 14101 of the  
 4           Elementary and Secondary Education Act of 1965  
 5           (20 U.S.C. 8801) (except for activities to assist stu-  
 6           dents in obtaining the recognized equivalents of sec-  
 7           ondary school diplomas);

8           “(2) the Higher Education Act of 1965 (20  
 9           U.S.C. 1001 et seq.);

10          “(3) the Head Start Act (42 U.S.C. 9831 et  
 11          seq.); or

12          “(4) the Child Care and Development Block  
 13          Grant Act of 1990 (42 U.S.C. 9858 et seq.).

14          “(e) RELIGIOUS CHARACTER AND INDEPENDENCE.—

15               “(1) IN GENERAL.—A religious organization  
 16               that provides assistance under a program described  
 17               in subsection (c) shall retain its independence from  
 18               Federal, State, and local governments, including  
 19               such organization’s control over the definition, devel-  
 20               opment, practice, and expression of its religious be-  
 21               liefs.

22               “(2) ADDITIONAL SAFEGUARDS.—Neither the  
 23               Federal Government nor a State or local government  
 24               shall require a religious organization—



1                   “(A) to alter its form of internal govern-  
2                   ance; or

3                   “(B) to remove religious art, icons, scrip-  
4                   ture, or other symbols;  
5                   in order to be eligible to provide assistance under a  
6                   program described in subsection (c).

7                   “(f) EMPLOYMENT PRACTICES.—

8                   “(1) TENETS AND TEACHINGS.—A religious or-  
9                   ganization that provides assistance under a program  
10                  described in subsection (c) may require that its em-  
11                  ployees providing assistance under such program ad-  
12                  here to the religious tenets and teachings of such or-  
13                  ganization, and such organization may require that  
14                  those employees adhere to rules forbidding the use  
15                  of drugs or alcohol.

16                  “(2) TITLE VII EXEMPTION.—The exemption of  
17                  a religious organization provided under section 702  
18                  or 703(e)(2) of the Civil Rights Act of 1964 (42  
19                  U.S.C. 2000e–1, 2000e–2(e)(2)) regarding employ-  
20                  ment practices shall not be affected by the religious  
21                  organization’s provision of assistance under, or re-  
22                  ceipt of funds from, a program described in sub-  
23                  section (c).

24                  “(g) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

1           “(1) IN GENERAL.—If an individual described  
 2           in paragraph (3) has an objection to the religious  
 3           character of the organization from which the indi-  
 4           vidual receives, or would receive, assistance funded  
 5           under any program described in subsection (c), the  
 6           appropriate Federal, State, or local governmental  
 7           entity shall provide to such individual (if otherwise  
 8           eligible for such assistance) within a reasonable pe-  
 9           riod of time after the date of such objection, assist-  
 10          ance that—

11                   “(A) is from an alternative organization  
 12                   that is accessible to the individual; and

13                   “(B) has a value that is not less than the  
 14                   value of the assistance that the individual would  
 15                   have received from such organization.

16           “(2) NOTICE.—The appropriate Federal, State,  
 17           or local governmental entity shall ensure that notice  
 18           is provided to individuals described in paragraph (3)  
 19           of the rights of such individuals under this section.

20           “(3) INDIVIDUAL DESCRIBED.—An individual  
 21           described in this paragraph is an individual who re-  
 22           ceives or applies for assistance under a program de-  
 23           scribed in subsection (c).

24           “(h) NONDISCRIMINATION AGAINST BENE-  
 25          FICIARIES.—

1           “(1) GRANTS AND CONTRACTS.—A religious or-  
2           ganization providing assistance through a grant or  
3           contract under a program described in subsection (c)  
4           shall not discriminate, in carrying out the program,  
5           against an individual described in subsection (g)(3)  
6           on the basis of religion, a religious belief, a refusal  
7           to hold a religious belief, or a refusal to actively par-  
8           ticipate in a religious practice.

9           “(2) INDIRECT FORMS OF DISBURSEMENT.—A  
10          religious organization providing assistance through a  
11          voucher, certificate, or other form of indirect dis-  
12          bursement under a program described in subsection  
13          (c) shall not deny an individual described in sub-  
14          section (g)(3) admission into such program on the  
15          basis of religion, a religious belief, or a refusal to  
16          hold a religious belief.

17         “(i) FISCAL ACCOUNTABILITY.—

18                 “(1) IN GENERAL.—Except as provided in para-  
19                 graph (2), any religious organization providing as-  
20                 sistance under any program described in subsection  
21                 (c) shall be subject to the same regulations as other  
22                 nongovernmental organizations to account in accord  
23                 with generally accepted accounting principles for the  
24                 use of such funds provided under such program.

1           “(2) LIMITED AUDIT.—Such organization shall  
2       segregate government funds provided under such  
3       program into a separate account. Only the govern-  
4       ment funds shall be subject to audit by the govern-  
5       ment.

6           “(j) COMPLIANCE.—A party alleging that the rights  
7       of the party under this section have been violated by a  
8       State or local government may bring a civil action pursu-  
9       ant to section 1979 against the official or government  
10      agency that has allegedly committed such violation. A  
11      party alleging that the rights of the party under this sec-  
12      tion have been violated by the Federal Government may  
13      bring a civil action for appropriate relief in an appropriate  
14      Federal district court against the official or government  
15      agency that has allegedly committed such violation.

16          “(k) LIMITATIONS ON USE OF FUNDS FOR CERTAIN  
17      PURPOSES.—No funds provided through a grant or con-  
18      tract to a religious organization to provide assistance  
19      under any program described in subsection (c) shall be  
20      expended for sectarian worship, instruction, or proselytiza-  
21      tion.

22          “(l) EFFECT ON STATE AND LOCAL FUNDS.—If a  
23      State or local government contributes State or local funds  
24      to carry out a program described in subsection (c), the  
25      State or local government may segregate the State or local

1 funds from the Federal funds provided to carry out the  
 2 program or may commingle the State or local funds with  
 3 the Federal funds. If the State or local government com-  
 4 mingles the State or local funds, the provisions of this sec-  
 5 tion shall apply to the commingled funds in the same man-  
 6 ner, and to the same extent, as the provisions apply to  
 7 the Federal funds.

8       “(m) TREATMENT OF INTERMEDIATE CONTRAC-  
 9 TORS.—If a nongovernmental organization (referred to in  
 10 this subsection as an ‘intermediate organization’), acting  
 11 under a contract or other agreement with the Federal Gov-  
 12 ernment or a State or local government, is given the au-  
 13 thority under the contract or agreement to select non-  
 14 governmental organizations to provide assistance under  
 15 the programs described in subsection (c), the intermediate  
 16 organization shall have the same duties under this section  
 17 as the government but shall retain all other rights of a  
 18 nongovernmental organization under this section.”.

1 **TITLE V—TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
 2 **TIREMENT ACCOUNTS FOR**  
 3 **CHARITABLE PURPOSES**

5 **SEC. 501. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
 6 **TIREMENT ACCOUNTS FOR CHARITABLE**  
 7 **PURPOSES.**

8 (a) IN GENERAL.—Subsection (d) of section 408 of  
 9 the Internal Revenue Code of 1986 (relating to individual  
 10 retirement accounts) is amended by adding at the end the  
 11 following new paragraph:

12 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-  
 13 POSES.—

14 “(A) IN GENERAL.—No amount shall be  
 15 includible in gross income by reason of a quali-  
 16 fied charitable distribution from an individual  
 17 retirement plan—

18 “(i) to an organization described in  
 19 section 170(c), or

20 “(ii) to a trust or fund, or for the  
 21 issuance of an annuity, described in sub-  
 22 paragraph (B).

23 “(B) SPECIAL RULES RELATING TO CHARI-  
 24 TABLE REMAINDER TRUSTS, POOLED INCOME  
 25 FUNDS, AND CHARITABLE GIFT ANNUITIES.—

1 “(i) IN GENERAL.—A trust, fund, or  
 2 annuity is described in this subparagraph  
 3 if such trust, fund, or annuity is—

4 “(I) a charitable remainder annu-  
 5 ity trust or a charitable remainder  
 6 unitrust (as such terms are defined in  
 7 section 664(d)),

8 “(II) a pooled income fund (as  
 9 defined in section 642(c)(5)), or

10 “(III) a charitable gift annuity  
 11 (as defined in section 501(m)(5)).

12 The preceding sentence shall apply only if  
 13 no person holds an income interest in the  
 14 amounts in the trust, fund, or annuity at-  
 15 tributable to a qualified charitable distribu-  
 16 tion other than one or more of the fol-  
 17 lowing: the individual for whose benefit  
 18 such account or annuity is maintained, the  
 19 spouse of such individual, or any organiza-  
 20 tion described in section 170(c).

21 “(ii) DETERMINATION OF INCLUSION  
 22 OF AMOUNTS DISTRIBUTED.—In deter-  
 23 mining the amount includible in the gross  
 24 income of any person by reason of a pay-  
 25 ment or distribution from a trust referred

to in clause (i)(I) or a charitable gift annuity (as so defined), the portion of any qualified charitable distribution to such trust or for such annuity which would (but for this subparagraph) have been includible in gross income—

“(I) shall be treated as income described in section 664(b)(1), and

“(II) shall not be treated as an investment in the contract.

“(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No amount shall be includible in the gross income of a pooled income fund (as so defined) by reason of a qualified charitable distribution to such fund.

“(C) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term ‘qualified charitable distribution’ means any distribution from an individual retirement plan—

“(i) which is made on or after the date that the individual for whose benefit the account or annuity is maintained has attained age 59½, and



1 “(ii) which is made directly from the  
2 account or annuity to—

3 “(I) an organization described in  
4 section 170(c); or

5 “(II) a trust, fund, or annuity  
6 described in subparagraph (B).

7 “(D) DENIAL OF DEDUCTION.—The  
8 amount allowable as a deduction under section  
9 170 to the taxpayer for the taxable year shall  
10 be reduced (but not below zero) by the sum of  
11 the amounts of the qualified charitable distribu-  
12 tions during such year which would be includ-  
13 ible in the gross income of the taxpayer for  
14 such year but for this paragraph.”

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to taxable years beginning after  
17 the date of the enactment of this Act.

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