

108TH CONGRESS
2D SESSION

S. 2589

AN ACT

To clarify the status of certain retirement plans and the
organizations which maintain the plans.

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

1 **SECTION 1. CLARIFICATION OF STATUS OF CERTAIN ORGA-**
 2 **NIZATIONS AND RETIREMENT PLANS.**

3 (a) IN GENERAL.—For purposes of any provision of
 4 law—

5 (1) the organization described in subsection
 6 (c)(5) maintaining the retirement plan of the eligible
 7 organization shall be treated as an organization de-
 8 scribed in section 414(e)(3)(A) of the Internal Rev-
 9 enue Code of 1986 with respect to its maintenance
 10 of benefit plans of the eligible organization, and

11 (2) subject to the provisions of subsection (b),
 12 any retirement plan which, as of January 1, 2003,
 13 was maintained by the organization described in
 14 paragraph (1) shall be treated as a church plan
 15 (within the meaning of section 414(e) of such Code)
 16 which is maintained by an organization described in
 17 section 414(e)(3)(A) of such Code.

18 (b) SPECIAL RULES RELATING TO RETIREMENT
 19 PLANS.—

20 (1) TAX-DEFERRED RETIREMENT PLAN.—In
 21 the case of a retirement plan which allows contribu-
 22 tions to be made under a salary reduction agreement
 23 and which is treated as a church plan under sub-
 24 section (a)—

1 (A) such treatment shall not apply for pur-
 2 poses of section 415(c)(7) of the Internal Rev-
 3 enue Code of 1986, and

4 (B) any account maintained for a partici-
 5 pant or beneficiary of such plan shall be treated
 6 as a retirement income account described in
 7 section 403(b)(9) of such Code, except that
 8 such account shall not, for purposes of section
 9 403(b)(12) of such Code, be treated as a con-
 10 tract purchased by a church for purposes of
 11 section 403(b)(1)(D) of such Code.

12 (2) MONEY PURCHASE PENSION PLAN.—In the
 13 case of a retirement plan subject to the requirements
 14 of section 401(a) of such Code and treated as a
 15 church plan under subsection (a)—

16 (A) such plan (but not any reserves held
 17 by the organization described in subsection
 18 (c)(5) maintaining the retirement plan of the el-
 19 igible organization)—

20 (i) shall be treated as a defined con-
 21 tribution plan which is a money purchase
 22 pension plan, and

23 (ii) shall be treated as having made
 24 an election under section 410(d) of such
 25 Code for plan years beginning after De-

1 cember 31, 2005, except that notwith-
2 standing the election—

3 (I) nothing in the Employee Re-
4 tirement Income Security Act of 1974
5 shall prohibit the plan from commin-
6 gling for investment purposes its as-
7 sets with any other assets of the orga-
8 nization described in subsection (c)(5)
9 maintaining the retirement plan of the
10 eligible organization (or of plans
11 maintained by it), and

12 (II) nothing in this section shall
13 be construed as subjecting such other
14 assets to any provision of such Act,

15 (B) notwithstanding section 401(a)(11) or
16 417 of such Code or section 205 of such Act,
17 such plan may offer a lump-sum distribution
18 option to participants who have not attained
19 age 55 without offering such participants an
20 annuity option, and

21 (C) any account maintained for a partici-
22 pant or beneficiary of such plan shall, for pur-
23 poses of section 401(a)(9) of such Code, be
24 treated as a retirement income account de-
25 scribed in section 403(b)(9) of such Code.

1 (c) ELIGIBLE ORGANIZATION.—For purposes of this
2 section, the term “eligible organization” means any orga-
3 nization if, as of January 1, 2003—

4 (1) more than 1 church recognizes employment
5 at the organization by a duly ordained, commis-
6 sioned, or licensed minister as service in the exercise
7 of the minister’s ministry,

8 (2) at least 1 nationally or internationally rec-
9 ognized church association includes the organization
10 (or its national or international representative body)
11 in its directory of participating or founding organi-
12 zations,

13 (3) such organization or national representative
14 body thereof is part of an ecumenical movement
15 (founded in the nineteenth century) to promote
16 worldwide fellowship united by common loyalty to
17 certain religious values,

18 (4) such organization’s national representative
19 body has chartered at least 1 organization that pro-
20 vides educational, recreational, social and religious
21 support to the armed forces of the United States,
22 and

23 (5) the organization has a retirement plan
24 which is administered by an organization—

1 (A) which was established by State law by
 2 a special act of the legislature and subject to
 3 certain provisions of the State's insurance law,

4 (B) the principal purpose or function of
 5 which is the administration or funding of a plan
 6 or program for the provision of retirement ben-
 7 efits or welfare benefits, or both, for employees
 8 of the eligible organization,

9 (C) is treated as an entity exempt from tax
 10 under section 501(m) of the Internal Revenue
 11 Code of 1986 without regard to the application
 12 of subsection (a), and

13 (D) whose organizing documents are
 14 amended no later than January 1, 2006, to re-
 15 quire that, for plan years beginning on or after
 16 such date, the greater of 2 trustees or 10 per-
 17 cent of the membership of its board of trustees
 18 be associated with a church.

19 For purposes of paragraph (5)(D), association with a
 20 church may include past or present service as an officer
 21 or board member of a church (within the meaning of sec-
 22 tion 3121(w)(3)(A) of such Code) or a church-controlled
 23 organization (within the meaning of section
 24 3121(w)(3)(B) of such Code).

1 (d) EFFECTIVE DATE.—The provisions of this sec-
2 tion shall apply to plan years beginning after December
3 31, 2003.

Passed the Senate July 14, 2004.

Attest:

Secretary.

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