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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.

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

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-

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

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

6 (C) which annually reports the information
7 required to be furnished under paragraph (5)
8 and if such organization is otherwise required
9 to file a return under section 6033 of such
10 Code, which elects to treat the information re-
11 quired to be furnished under paragraph (5) as
12 the information specified in section 6033(b) of
13 such Code.

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

17 (A) IN GENERAL.—A contribution to a col-
18 lection organization shall be treated as a con-
19 tribution to a qualified charity if the donor des-
20 ignates in writing that the contribution is for
21 the qualified charity.

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

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

3 (i) which solicits and collects gifts and
4 grants which, by agreement, are distrib-
5 uted to qualified charities described in
6 paragraph (1);

7 (ii) which distributes to qualified
8 charities described in paragraph (1) at
9 least 90 percent of the gifts and grants re-
10 ceived that are designated for such quali-
11 fied charities; and

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

14 (3) CHARITY MUST PRIMARILY ASSIST POOR IN-
15 DIVIDUALS.—

16 (A) IN GENERAL.—An organization meets
17 the requirements of this paragraph only if the
18 appropriate State authority reasonably expects
19 that the predominant activity of such organiza-
20 tion will be the provision of direct services with-
21 in the United States to individuals and families
22 whose annual incomes generally do not exceed
23 185 percent of the official poverty line (as de-
24 fined 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 advocaey, 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 CHARIT-
 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 organizations 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 organization 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**
 4

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

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

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

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

11 “(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No
12 amount shall be includible in the gross in-
13 come of a pooled income fund (as so de-
14 fined) by reason of a qualified charitable
15 distribution to such fund.

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

22 “(i) which is made on or after the
23 date that the individual for whose benefit
24 the account or annuity is maintained has
25 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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