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 to protect and encourage donations to charitable organizations.

IN THE SENATE OF THE UNITED STATES
APRIL 28, 1998
Mr. COATS (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COVERDELL, and Mr. SANTORUM) 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 to protect and encourage donations to charitable organizations.

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 “REAL Life Community Renewal Act of 1998”.
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—BANKRUPTCY PROTECTIONS FOR CHARITABLE DONATIONS

Sec. 301. Definitions.
Sec. 302. Treatment of prepetition qualified charitable contributions.
Sec. 303. Treatment of post-petition charitable contributions.
Sec. 304. Applicability.
Sec. 305. Rule of construction.

TITLE IV—TORT REFORMS RELATING TO CHARITABLE CONTRIBUTIONS

Sec. 401. Definitions.
Sec. 402. Liability.
Sec. 403. Exceptions.
Sec. 404. Superseding provision.
Sec. 405. Election of State regarding nonapplicability.
Sec. 406. Effective date.

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

2 SEC. 101. AUTHORITY TO USE CERTAIN FEDERAL GRANT FUNDS FOR STATE CHARITY TAX CREDIT.

3 (a) IN GENERAL.—Notwithstanding any other provision of law, if there is in effect under State law a charity tax credit, then the State may use for any purpose—

4 (1) not more than 50 percent of the total amount paid to the State during the fiscal year
under the provisions of law specified in subsection (d)(1);

(2) not more than 50 percent of the total amount paid to the State during the fiscal year under the provisions of law specified in subsection (d)(2);

(3) not more than 50 percent of the total amount paid to the State during the fiscal year under the provisions of law specified in subsection (d)(3);

(4) not more than 50 percent of the total amount paid to the State during the fiscal year under the law specified in subsection (d)(4);

(5) not more than 50 percent of the total amount paid to the State during the fiscal year under the law specified in subsection (d)(5);

(6) not more than 50 percent of the total amount paid to the State during the fiscal year under the law specified in subsection (d)(6); and

(7) not more than 50 percent of the total amount paid to the State during the fiscal year under the law specified in subsection (d)(7).

(b) LIMITATION.—The aggregate amount a State may use under subsection (a) during a fiscal year shall not exceed 100 percent of the revenue loss of the State
during the fiscal year that is attributable to the charity
tax credit, as determined by the Secretary of the Treasury
without regard to any such revenue loss occurring before
January 1, 1999.

(c) Certain Credit Amounts Treated as State
Payment for Temporary Assistance for Needy
Families.—For purposes of title IV of the Social Security
Act, an amount equal to the excess (if any) of—

(1) the amount of the revenue loss of a State
(not to exceed 100 percent) during a fiscal year that
is attributable to the charity tax credit, as deter-
dined under subsection (b), over

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

(d) Provisions of Law.—The provisions of law re-
ferred to in this subsection are the following:

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

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


(7) Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

SEC. 102. DEFINITIONS.

(a) Charitable Tax Credit.—For purposes of this title, the term “charitable tax credit” means a nonrefundable credit against State income tax (or, in the case of a State which does not impose an income tax, a comparable benefit)—

(1) which is allowable only to individuals for cash contributions to qualified charities,

(2) the maximum amount of which for each taxable year does not exceed $250 ($500 in the case of a joint or combined return of individuals who are married to each other), and
(3) under which the annual amount of the credit allowed per taxpayer is not more than $50 ($100 in the case of a joint or combined return of individuals who are married to each other) in the first year and increased by not more than $50 ($100 in the case of a joint or combined return of individuals who are married to each other) for each subsequent year.

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

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

(A) which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt 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) 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 by paragraph (5) as being 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 such Code 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 it receives 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) in order to prevent or alleviate poverty among such individuals and families.

(B) No recordkeeping in certain cases.—An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subparagraph (A) if such individuals or families are members of groups which are generally recognized as including substantially only individuals and families described in subparagraph (A).

(C) Food aid and homeless shelters.—Except as otherwise provided by the appropriate State authority, for purposes of sub-
paragraph (A), services to individuals in the form of—

(i) donations of food or meals, or

(ii) temporary shelter to homeless individuals,

shall be treated as provided to individuals described in subparagraph (A) if the location and operation of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subparagraph (A).

(4) Minimum expense requirement.—

(A) In general.—An organization meets the requirements of this paragraph only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

(B) Poverty program expense.—For purposes of subparagraph (A)—

(i) In general.—The term “poverty program expense” means any expense in
providing program services referred to in paragraph (3).

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

(I) any management or general expense,

(II) any expense for the purpose of influencing legislation (as defined in section 4911(d) of the Internal Revenue Code of 1986),

(III) any expense for the purpose of fundraising,

(IV) any expense for a legal service provided on behalf of any individual referred to in paragraph (3), and

(V) any expense which consists of a payment to an affiliate of the organization.

(5) REPORTING REQUIREMENT.—The information required to be furnished under this paragraph is—

(A) the percentages determined by dividing the following categories of the organization’s expenses for the year by its total expenses for the year: program services, management expenses,
general expenses, fundraising expenses, and payments to affiliates, and

(B) the category or categories (including food, shelter, education, substance abuse, job training, or otherwise) of services which constitute its predominant activities.

(6) ADDITIONAL REQUIREMENTS FOR SOLICITATION ORGANIZATIONS.—The requirements of this paragraph are met if the organization—

(A) maintains separate accounting for revenues and expenses, and

(B) makes available to the public its administrative and fundraising costs and information as to the organizations receiving funds from it and the amount of such funds.

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

(A) the definition of “qualified charity” be further limited under State law to organizations—

(i) which have been operating for at least 1 year or are controlled by, or operated under the auspices of, organizations which have been operating for at least one year, and
(ii) with expenses of less than 5 percent of total expenses for the purpose of influencing legislation, litigation on behalf of any individual referred to in paragraph (3), voter registration, political organizing, public policy advocacy, or public policy research,

(B) subject to subsection (a)(2), the amount of the credit be at least 50 percent and not more than 90 percent of the amount of the cash contributions to qualified charities, and

(C) contributions made not later than the time prescribed by law for filing the return of the State income tax for a taxable year (not including extensions thereof) be treated as made (at the taxpayer's election) on the last day of such year.

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

(A) which has a constitutional requirement of tax uniformity, and

(B) which, as of December 31, 1997, imposed a tax on personal income with—

(i) a single flat rate applicable to all earned and unearned income (except inso-
far as any amount is not taxed pursuant to
tax forgiveness provisions), and
(ii) no generally available exemptions
or deductions to individuals,
the requirement of subsection (a)(2) shall be treated
as met if the amount of the credit is limited to a
uniform percentage (but not greater than 25 per-
cent) of State personal income tax liability (deter-
mined without regard to credits).

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

(c) STATE.—For purposes of this title, the term
“State” means each of the several States, the District of
Columbia, the Commonwealth of Puerto Rico, the Virgin
Islands, Guam, American Samoa, the Northern Mariana
Islands, any other territory or possession of the United
States.
SEC. 103. STUDY AND REPORT.

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

(1) the types of organizations which receive contributions during the first year to which the credit applies, and

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

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

(1) the geographical distribution of funding from charity tax credit contributions, and an analysis of Internal Revenue Service Form 990’s of qualified charities to determine if the broad categories of services provided to the poor (including food, shelter, education, substance abuse, job training, or otherwise) match the services that would otherwise be provided by Federal welfare program funds without the enactment of the reductions in the programs permitted by this legislation, and

(2) any recommendations for legislative changes.

SEC. 104. EFFECTIVE DATE.

This title shall take effect on January 1, 1999.
TITLE II—BUDGET OFFSET

SEC. 201. REDUCTION OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.

(a) IN GENERAL.—The table in subparagraph (A) of section 32(b)(1) of the Internal Revenue Code of 1986 is amended by striking the item relating to no qualifying children and inserting the following:

``No qualifying children ......................................................... 3.825 7.651.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

TITLE III—BANKRUPTCY PROTECTIONS FOR CHARITABLE DONATIONS

SEC. 301. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

“(3) In this section, the term ‘charitable contribution’ means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

“(A) is made by a natural person; and

“(B) consists of—
“(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or
“(ii) cash.
“(4) In this section, the term ‘qualified religious or charitable entity or organization’ means—
“(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or
“(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.”.

SEC. 302. TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.
(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—
(1) by inserting “(1)” after “(a)”;
(2) by striking “(1) made” and inserting “(A) made”; 
(3) by striking “(2)(A)” and inserting “(B)(i)”;
(4) by striking “(B)(i)” and inserting “(ii)(I)”;
(5) by striking “(ii) was” and inserting “(II) was”; 
(6) by striking “(iii)” and inserting “(III)”;
and
(7) by adding at the end the following:
“(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

“(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

“(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.”.

(b) Trustee as Lien Creditor and as Successor to Certain Creditors and Purchasers.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking “(b) The trustee” and inserting “(b)(1) Except as provided in paragraph (2), the trustee”; and

(2) by adding at the end the following:

“(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2).”.
(c) **CONFORMING AMENDMENTS.**—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”;  

(2) in subsection (f)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”; and

(3) in subsection (g)—

(A) by striking “section 548(a)(1)” each place it appears and inserting “section 548(a)(1)(A)”; and

(B) by striking “548(a)(2)” and inserting “548(a)(1)(B)”.  

**SEC. 303. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.**

(a) **CONFIRMATION OF PLAN.**—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: “, including charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to a
1 qualified religious or charitable entity or organization (as
2 that term is defined in section 548(d)(4)) in an amount
3 not to exceed 15 percent of the gross income of the debtor
4 for the year in which the contributions are made”.
5
6 (b) DISMISSAL.—Section 707(b) of title 11, United
7 States Code, is amended by adding at the end the follow-
8 ing: “In making a determination whether to dismiss a case
9 under this section, the court may not take into consider-
10 ation whether a debtor has made, or continues to make,
11 charitable contributions (that meet the definition of ‘chari-
12 table contribution’ under section 548(d)(3)) to any quali-
13 fied religious or charitable entity or organization (as that
14 term is defined in section 548(d)(4)).”.
15
16 SEC. 304. APPLICABILITY.
17
18 This title and the amendments made by this title
19 shall apply to any case brought under an applicable provi-
20 sion of title 11, United States Code, that is pending or
21 commenced on or after the date of enactment of this Act.
22
23 SEC. 305. RULE OF CONSTRUCTION.
24
25 Nothing in the amendments made by this title is in-
26 tended to limit the applicability of the Religious Freedom
TITLE IV—TORT REFORMS RELATING TO CHARITABLE CONTRIBUTIONS

SEC. 401. DEFINITIONS.

In this title:

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

(2) BUSINESS ENTITY.—The term “business entity” means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(3) EQUIPMENT.—The term “equipment” includes mechanical equipment, electronic equipment, and office equipment.

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

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

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

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

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

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

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

(9) STATE.—The term “State” means each of
the several States, the District of Columbia, the
Commonwealth of Puerto Rico, the Virgin Islands,
Guam, American Samoa, the Northern Mariana Is-
lands, any other territory or possession of the
United States, or any political subdivision of any
such State, territory, or possession.
SEC. 402. LIABILITY.

(a) LIABILITY OF BUSINESS ENTITIES THAT DONATE EQUIPMENT TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—Subject to section 403, a business entity shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by a business entity to a nonprofit organization.

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

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

(1) IN GENERAL.—Subject to section 403, a business entity shall not be subject to civil liability relating to any injury or death occurring at a facility of the business entity in connection with a use of such facility by a nonprofit organization if—

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

(B) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(C) the business entity authorized the use of such facility by the nonprofit organization.
(2) Application.—This subsection shall apply—

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

(B) regardless of whether a nonprofit organization pays for the use of a facility.

(c) Liability of Business Entities Providing Use of a Motor Vehicle or Aircraft.—

(1) In general.—Subject to section 403, a business entity shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of aircraft or a motor vehicle of a business entity loaned to a nonprofit organization for use outside of the scope of business of the business entity if—

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

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

(2) Application.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and
(B) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

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

(1) IN GENERAL.—Subject to section 403, a business entity shall not be subject to civil liability relating to any injury to, or death of an individual occurring at a facility of the business entity if—

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

(B) the business entity authorized the tour.

(2) APPLICATION.—This subsection shall apply—

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

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

SEC. 403. EXCEPTIONS.

Section 402 shall not apply to an injury or death that results from an act or omission of a business entity that
constitutes gross negligence or intentional misconduct, in-
cluding any misconduct that—

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

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

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

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

SEC. 404. SUPERSEDEDING PROVISION.

(a) IN GENERAL.—Subject to subsection (b) and sec-
tion 405, this title preempts the laws of any State to the
extent that such laws are inconsistent with this title, ex-
cept that this title shall not preempt any State law that
provides additional protection for a business entity for an
injury or death described in a subsection of section 402
with respect to which the conditions specified in such sub-
section apply.
(b) LIMITATION.—Nothing in this title shall be construed to supersede any Federal or State health or safety law.

SEC. 405. ELECTION OF STATE REGARDING NON-APPLICABILITY.

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

(1) citing the authority of this section;

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

(3) containing no other provisions.

SEC. 406. EFFECTIVE DATE.

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