

108TH CONGRESS
2D SESSION

S. 2589

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

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2004

Mr. BUNNING (for himself, Mr. GRAHAM of Florida, Mr. SMITH, Mr. HATCH, Mr. CHAMBLISS, Mr. MILLER, Mr. DODD, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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,*

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

5 (a) IN GENERAL.—For purposes of any provision of
6 law—

7 (1) the organization described in subsection

8 (c)(5) maintaining the retirement plan of the eligible

9 organization shall be treated as an organization de-

1 scribed in section 414(e)(3)(A) of the Internal Rev-
2 enue Code of 1986 with respect to its maintenance
3 of benefit plans of the eligible organization, and

4 (2) subject to the provisions of subsection (b),
5 any retirement plan which, as of January 1, 2003,
6 was maintained by the organization described in
7 paragraph (1) shall be treated as a church plan
8 (within the meaning of section 414(e) of such Code)
9 which is maintained by an organization described in
10 section 414(e)(3)(A) of such Code.

11 (b) SPECIAL RULES RELATING TO RETIREMENT
12 PLANS.—

13 (1) TAX-DEFERRED RETIREMENT PLAN.—In
14 the case of a retirement plan which allows contribu-
15 tions to be made under a salary reduction agreement
16 and which is treated as a church plan under sub-
17 section (a)—

18 (A) such treatment shall not apply for pur-
19 poses of section 415(e)(7) of the Internal Rev-
20 enue Code of 1986, and

21 (B) any account maintained for a partici-
22 pant or beneficiary of such plan shall be treated
23 as a retirement income account described in
24 section 403(b)(9) of such Code, except that
25 such account shall not, for purposes of section

1 403(b)(12) of such Code, be treated as a con-
2 tract purchased by a church for purposes of
3 section 403(b)(1)(D) of such Code.

4 (2) MONEY PURCHASE PENSION PLAN.—In the
5 case of a retirement plan subject to the requirements
6 of section 401(a) of such Code and treated as a
7 church plan under subsection (a)—

8 (A) such plan (but not any reserves held
9 by the organization described in subsection
10 (c)(5) maintaining the retirement plan of the el-
11 igible organization)—

12 (i) shall be treated as a defined con-
13 tribution plan which is a money purchase
14 pension plan, and

15 (ii) shall be treated as having made
16 an election under section 410(d) of such
17 Code for plan years beginning after De-
18 cember 31, 2005, except that notwith-
19 standing the election—

20 (I) nothing in the Employee Re-
21 tirement Income Security Act of 1974
22 shall prohibit the plan from commin-
23 gling for investment purposes its as-
24 sets with any other assets of the orga-
25 nization described in subsection (c)(5)

1 maintaining the retirement plan of the
2 eligible organization (or of plans
3 maintained by it), and

4 (II) nothing in this section shall
5 be construed as subjecting such other
6 assets to any provision of such Act,

7 (B) notwithstanding section 401(a)(11) or
8 417 of such Code or section 205 of such Act,
9 such plan may offer a lump-sum distribution
10 option to participants who have not attained
11 age 55 without offering such participants an
12 annuity option, and

13 (C) any account maintained for a partici-
14 pant or beneficiary of such plan shall, for pur-
15 poses of section 401(a)(9) of such Code, be
16 treated as a retirement income account de-
17 scribed in section 403(b)(9) of such Code.

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

21 (1) more than 1 church recognizes employment
22 at the organization by a duly ordained, commis-
23 sioned, or licensed minister as service in the exercise
24 of the minister’s ministry,

1 (2) at least 1 nationally or internationally rec-
2 ognized church association includes the organization
3 (or its national or international representative body)
4 in its directory of participating or founding organi-
5 zations,

6 (3) such organization or national representative
7 body thereof is part of an ecumenical movement
8 (founded in the nineteenth century) to promote
9 worldwide fellowship united by common loyalty to
10 certain religious values,

11 (4) such organization's national representative
12 body has chartered at least 1 organization that pro-
13 vides educational, recreational, social and religious
14 support to the armed forces of the United States,
15 and

16 (5) the organization has a retirement plan
17 which is administered by an organization—

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

21 (B) the principal purpose or function of
22 which is the administration or funding of a plan
23 or program for the provision of retirement ben-
24 efits or welfare benefits, or both, for employees
25 of the eligible organization,

1 (C) is treated as an entity exempt from tax
2 under section 501(m) of the Internal Revenue
3 Code of 1986 without regard to the application
4 of subsection (a), and

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

11 For purposes of paragraph (5)(D), association with a
12 church may include past or present service as an officer
13 or board member of a church (within the meaning of sec-
14 tion 3121(w)(3)(A) of such Code) or a church-controlled
15 organization (within the meaning of section
16 3121(w)(3)(B) of such Code).

17 (d) EFFECTIVE DATE.—The provisions of this sec-
18 tion shall apply to plan years beginning after December
19 31, 2003.

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