

104TH CONGRESS  
2D SESSION

# S. 2047

To amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans.

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IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1996

Mr. HATCH (for himself, Mr. CONRAD, Mr. PRESSLER, Mr. PRYOR, Mr. NICKLES, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental 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. MODIFICATIONS TO NONDISCRIMINATION AND**  
4 **MINIMUM PARTICIPATION RULES WITH RE-**  
5 **SPECT TO GOVERNMENTAL PLANS.**

6 (a) GENERAL NONDISCRIMINATION AND PARTICIPA-  
7 TION RULES.—

8 (1) NONDISCRIMINATION REQUIREMENTS.—

9 Paragraph (5) of section 401(a) of the Internal Rev-

1        enue Code of 1986 (relating to qualified pension,  
 2        profit-sharing, and stock bonus plans) is amended by  
 3        adding at the end the following new subparagraph:

4                “(F)     GOVERNMENTAL     PLANS.—Para-  
 5                graphs (3) and (4) shall not apply to a govern-  
 6                mental plan (within the meaning of section  
 7                414(d)).”

8                (2)     ADDITIONAL     PARTICIPATION     REQUIRE-  
 9                MENTS.—Subparagraph (H) of section 401(a)(26) of  
 10               such Code is amended to read as follows:

11               “(H)     EXCEPTION     FOR     GOVERNMENTAL  
 12               PLANS.—This paragraph shall not apply to a  
 13               governmental plan (within the meaning of sec-  
 14               tion 414(d)).”

15               (3)     MINIMUM     PARTICIPATION     STANDARDS.—  
 16               Paragraph (2) of section 410(c) of such Code is  
 17               amended to read as follows:

18               “(2) A plan described in paragraph (1) shall be  
 19               treated as meeting the requirements of this section  
 20               for purposes of section 401(a), except that in the  
 21               case of a plan described in subparagraph (B), (C),  
 22               or (D) of paragraph (1), this paragraph shall only  
 23               apply if such plan meets the requirements of section  
 24               401(a)(3) (as in effect on September 1, 1974).”

1       (b) PARTICIPATION STANDARDS FOR QUALIFIED  
 2 CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of  
 3 section 401(k) of the Internal Revenue Code of 1986 is  
 4 amended by adding at the end the following new subpara-  
 5 graph:

6               “(E)(i) The requirements of subparagraph  
 7       (A)(i) and (C) shall not apply to a govern-  
 8       mental plan (within the meaning of section  
 9       414(d)).

10              “(ii) The requirements of subsection  
 11       (m)(2) (without regard to subsection (a)(4))  
 12       shall apply to any matching contribution of a  
 13       governmental plan (as so defined).”

14       (c) NONDISCRIMINATION RULES FOR SECTION  
 15 403(b) PLANS.—Paragraph (12) of section 403(b) of the  
 16 Internal Revenue Code of 1986 is amended by adding at  
 17 the end the following new subparagraph:

18              “(C) GOVERNMENTAL PLANS.—For pur-  
 19       poses of paragraph (1)(D), the requirements of  
 20       subparagraph (A)(i) shall not apply to a gov-  
 21       ernmental plan (within the meaning of section  
 22       414(d)).”

23       (d) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2       this section shall apply to taxable years beginning on  
3       or after the date of enactment of this Act.

4           (2) TREATMENT FOR YEARS BEGINNING BE-  
5       FORE DATE OF ENACTMENT.—A governmental plan  
6       (within the meaning of section 414(d) of the Inter-  
7       nal Revenue Code of 1986) shall be treated as satis-  
8       fying the requirements of sections 401(a)(3),  
9       401(a)(4), 401(a)(26), 401(k), 401(m), 403  
10      (b)(1)(D) and (b)(12), and 410 of such Code for all  
11      taxable years beginning before the date of enactment  
12      of this Act.

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