

105TH CONGRESS  
1ST SESSION

# H. R. 1740

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 HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ENSIGN, Mr. MATSUI, Mr. CRANE, Mr. ENGLISH of Pennsylvania, Mr. HOUGHTON, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY of Connecticut, Mr. KLECZKA, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. McNULTY, Mr. RAMSTAD, Mr. THOMAS, Mr. WELLER, Mr. HULSHOF, Mr. HOBSON, Mr. POMEROY, Mr. SAWYER, Mr. ABERCROMBIE, Mr. BATEMAN, Mr. BLUMENAUER, Mrs. CUBIN, Mr. FROST, Mr. GOODE, Mr. HOYER, Ms. KILPATRICK, Mr. MANZULLO, Ms. MCCARTHY of Missouri, Mr. MORAN of Virginia, Mr. OLVER, Mr. PICKETT, and Mr. STUMP) introduced the following bill; which was referred to the Committee on Ways and Means

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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,*

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1 **SECTION 1. MODIFICATIONS TO NONDISCRIMINATION AND**  
2 **MINIMUM PARTICIPATION RULES WITH RE-**  
3 **SPECT TO GOVERNMENTAL PLANS.**

4 (a) **GENERAL NONDISCRIMINATION AND PARTICIPA-**  
5 **TION RULES.—**

6 (1) **NONDISCRIMINATION REQUIREMENTS.—**  
7 Section 401(a)(5) of the Internal Revenue Code of  
8 1986 (relating to qualified pension, profit-sharing,  
9 and stock bonus plans) is amended by adding at the  
10 end the following:

11 “(G) **GOVERNMENTAL PLANS.—**Para-  
12 graphs (3) and (4) shall not apply to a govern-  
13 mental plan (within the meaning of section  
14 414(d)).”.

15 (2) **ADDITIONAL PARTICIPATION REQUIRE-**  
16 **MENTS.—**Section 401(a)(26)(H) of such Code (relat-  
17 ing to additional participation requirements) is  
18 amended to read as follows:

19 “(H) **EXCEPTION FOR GOVERNMENTAL**  
20 **PLANS.—**This paragraph shall not apply to a  
21 governmental plan (within the meaning of sec-  
22 tion 414(d)).”.

23 (3) **MINIMUM PARTICIPATION STANDARDS.—**  
24 Section 410(c)(2) of such Code (relating to applica-  
25 tion of participation standards to certain plans) is  
26 amended to read as follows:

1           “(2) A plan described in paragraph (1) shall be  
2           treated as meeting the requirements of this section  
3           for purposes of section 401(a), except that in the  
4           case of a plan described in subparagraph (B), (C),  
5           or (D) of paragraph (1), this paragraph shall only  
6           apply if such plan meets the requirements of section  
7           401(a)(3) (as in effect on September 1, 1974).”.

8           (b) PARTICIPATION STANDARDS FOR QUALIFIED  
9           CASH OR DEFERRED ARRANGEMENTS.—Section  
10          401(k)(3) of the Internal Revenue Code of 1986 (relating  
11          to application of participation and discrimination stand-  
12          ards) is amended by adding at the end the following:

13                   “(G)(i) The requirements of subparagraph  
14                   (A)(i) and (C) shall not apply to a govern-  
15                   mental plan (within the meaning of section  
16                   414(d)).

17                   “(ii) The requirements of subsection  
18                   (m)(2) (without regard to subsection (a)(4))  
19                   shall apply to any matching contribution of a  
20                   governmental plan (as so defined).”.

21          (c) NONDISCRIMINATION RULES FOR SECTION  
22          403(b) PLANS.—Section 403(b)(12) of the Internal Reve-  
23          nue Code of 1986 (relating to nondiscrimination require-  
24          ments) is amended by adding at the end the following:

1           “(C) GOVERNMENTAL PLANS.—For pur-  
2           poses of paragraph (1)(D), the requirements of  
3           subparagraph (A)(i) shall not apply to a gov-  
4           ernmental plan (within the meaning of section  
5           414(d)).”.

6           (d) EFFECTIVE DATE.—

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

10          (2) TREATMENT FOR YEARS BEGINNING BE-  
11          FORE DATE OF ENACTMENT.—A governmental plan  
12          (within the meaning of section 414(d) of the Inter-  
13          nal Revenue Code of 1986) shall be treated as satis-  
14          fying the requirements of sections 401(a)(3),  
15          401(a)(4), 401(a)(26), 401(k), 401(m), 403  
16          (b)(1)(D) and (b)(12), and 410 of such Code for all  
17          taxable years beginning before the date of enactment  
18          of this Act.

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