

Public Law 101-140  
101st Congress

Joint Resolution

Nov. 8, 1989

[H.J. Res. 280]

Increasing the statutory limit on the public debt.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "\$3,122,700,000,000".

**TITLE II—REPEAL OF SECTION 89  
NONDISCRIMINATION RULES**

**SEC. 201. AMENDMENT OF 1986 CODE.**

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 202. REPEAL OF SECTION 89.**

(a) **IN GENERAL.**—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) **CLERICAL AMENDMENT.**—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

**SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.**

(a) **IN GENERAL.**—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan

26 USC 89 note.

26 USC 6652, 79,  
105, 120, 127,  
129, 125, 117,  
132, 505.

26 USC 3121,  
3231, 3306, 3401,  
4976, 505, 129,  
117, 120, 127,  
132; 42 USC 409.

maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

26 USC 89 notes.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

“(7) EXEMPTION FOR CHURCH PLANS.—

“(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

“(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

“(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

“(ii) the term 'church employee' shall not include an employee of—

“(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

“(II) an organization described in section 170(b)(1)(A)(iii), and

“(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II).”

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

“(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

“(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

“(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

“(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer

pay as contributions for post-retirement group life insurance if—

“(i) all contributions for such insurance must be made before retirement, and

“(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance.”

26 USC 79 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

**SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.**

(a) **DEPENDENT CARE ASSISTANCE.**—

(1) **IN GENERAL.**—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: “If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees.”

(2) **EXCLUDED EMPLOYEES.**—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

“(9) **EXCLUDED EMPLOYEES.**—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

“(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

“(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.”

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) **DELAY IN APPLICATION OF BENEFITS TEST.**—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking “paragraphs (2) through (7)” and inserting “paragraphs (2) through (8)”.

(C) Section 129(e)(6) is amended by striking “(7)” and inserting “(8)”.

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989.

26 USC 129 note.

(b) LINE OF BUSINESS TEST.—

26 USC 414 note.

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to \$200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

26 USC 129 note.

(2) The amendments made by subsection (a)(3) shall apply to plan years beginning after December 31, 1989.

26 USC 129 note.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

26 USC 414 note.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.

26 USC 505 note.

## TITLE III—RESTORATION OF TRUST FUNDS

### SEC. 301. RESTORATION OF TRUST FUNDS.

31 USC 3101 note.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) **INTEREST CREDITED.**—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) **INTEREST ON MARKET-BASED OBLIGATIONS.**—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) **CREDITED AMOUNTS TREATED AS INTEREST.**—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) **DEFINITIONS.**—For purposes of this section—

(1) **DEBT ISSUANCE SUSPENSION PERIOD.**—The term “debt issuance suspension period” means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) **FEDERAL FUND.**—The term “Federal fund” means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect

of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

Approved November 8, 1989.

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LEGISLATIVE HISTORY—H.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 135 (1989):

May 17, considered and passed House pursuant to H. Con. Res. 106.

Nov. 7, considered and passed Senate, amended. House concurred in Senate amendment.