

July 18, 2001

---

---

## Policy Brief.....H.R. 7 -- Community Solutions Act

---

---

### **Charitable Choice Provisions:**

The bill expands the number of programs covered by so-called “charitable choice” provisions and sets out procedures under which faith-based groups will receive funding as follows:

**Government Programs Covered:** (Note the bill only lists general areas of programs – underlined below. The number of distinct programs and total value is based on information gathered by the RSC and is a best-guess estimate based on current information.)

- Juvenile Justice & Delinquency Programs –approximately 20 programs totaling at least \$494 million in FY 2001
- Crime Prevention and Assistance to Crime Victims – approximately 18 programs totaling at least \$1.678 billion in FY 2001
- Housing and Community Development Programs – over 12 programs totaling at least \$23.5 billion in FY 2001
- Workforce Investment Programs – approximately 3 programs totaling at least \$5.6 billion in FY 2001
- Older Americans Act Programs – approximately 12 programs totaling at least \$1.275 billion in FY 2001
- Domestic Violence, Child Abuse Prevention and Family Violence Prevention -- approximately 8 programs totaling at least \$650 million in FY 2001
- Hunger Relief Programs – approximately 10 programs totaling at least \$19.9 billion in FY 2001
- Job Access and Reverse Commute Program
- Non-School Hour Education Programs – at least 2 programs, totaling at least \$549 million

In total, the bill covers over 80 separate programs that received over \$53 billion in FY 2001.

### **Funding Mechanisms:**

Grants & Cooperative Agreements: Funding can be provided to faith-based groups through grants and cooperative agreements as authorized in the underlying statutes and regulations for each program.

Indirect Assistance (Vouchers): In addition, the bill authorizes the Secretary of any Department administering a program covered under the bill to convert all or part of any of the programs under their jurisdiction into indirect assistance programs, provided that such a conversion is consistent with the programs purpose and that it is feasible and efficient. Under this option, individuals would receive vouchers or certificates, which they could then use to receive assistance from faith-based or secular programs.

**Restrictions and Requirements for Faith-Based Groups & Protections for Individuals:**

<b>Issue</b>	<b>Funded Through Grants &amp; Cooperative Agreements</b>	<b>Indirect Assistance</b>
Use of Funds	Funds cannot be used for sectarian instruction, worship, or proselytization	No similar restriction
Employment	Faith-based groups retain right under current law to discriminate in hiring based on sincerely held religious beliefs	Same
Discrimination Laws	As under current law, faith-based groups are required to comply with other anti-discrimination laws (race, color, national origin, disability, age and in the case of education program, sex)	Same
Segregation of Funds & Audit	Required to segregate government funds into a separate account. Only government funds are subject to audit	Permitted, but not required to segregate funds. If funds are segregated, only government funds are subject to audit
Self-audit	Required annual self-audit to ensure compliance under this Act	Same
Non-Discrimination	May not discriminate in the admission or carrying out of a program on the basis of the beneficiary’s religion, religious belief, or refusal to hold a religious belief.	May not discriminate in the admission to a program on the basis of the beneficiary’s religion, religious belief, or refusal to hold a religious belief.
Opt-Out	Individuals may opt-out of any religious activities.	No such provision.

Trap-Door Provisions: If an individual who is otherwise entitled to assistance objects to the religious character of a service provider, the appropriate Federal, State, or local government entity is required to provide to the individual an alternative that is accessible and unobjectionable to the individual and which is not of lesser value than the assistance provided by the faith-based group.

**Protections for Faith-Based Groups:**

- Explicit right to retain autonomy from all levels of government, including retaining control over the “definition, development, practice, and expression” of religious beliefs.

- Explicit language stating that faith-based groups retain their Title VII Civil Rights exemption permitting them to discriminate in hiring based on sincerely held religious beliefs.

**Effect on State and Local Governments & Compliance Options:**

- If State or local government commingles their funds with federal funds, then the provisions of the Act apply to the State or local funds in the same manner as they apply to the Federal funds.
- A party alleging that a government official has violated their rights may only file suit for injunctive relief.

**Training and Technical Assistance:**

The bill sets aside a minimum of \$5 million, but up to \$50 million of funds provided to the Office of Justice Programs (includes the COPS Program) for the Attorney General to carry out a program to provide technical assistance to small non-governmental organizations relating to creating 501(c)3, grant writing, and compliance with non-discrimination laws.

**Tax Provisions:**

The bill reduces revenues by \$13.3 billion over ten years --\$368 million in 2002 and \$816 million in 2003 as follows:

**Charitable Deduction for Non-Itemizers:** (\$6.4 billion over ten years)

Allows non-itemizers to deduct:

\$25 for a single filer and \$50 for a joint in 2002-2003,  
 \$50 for a single filer and \$100 for a joint in 2004-2006,  
 \$75 for a single filer and \$150 for a joint in 2007-2009, and  
 \$100 for a single filer and \$200 for a joint in 2010 and thereafter.

*The President proposed allowing non-itemizers to deduct charitable contributions up to an amount equal to their standard deduction (\$7,350 for joint returns, \$4,300 for single returns, and \$6,350 for head-of-household returns).*

**Charitable Contributions from IRAs:** (\$2.8 billion over ten years)

Allows those 70 ½ and older to make tax-free distributions from their IRA to charitable causes

*The President proposed allowing those 59 ½ and older to make tax-free distributions from their IRA to charitable causes.*

**Corporate Charitable Contributions:** (\$917 million over ten years)

Raises the cap on deductions for corporate charitable contributions from 10% on modified taxable income to 11% in 2002 through 2007, 12% in 2008, 13% in 2009, and 15% in 2010.

*The President proposed raising the cap on corporate charitable contributions from 10% to 15% effective in 2002.*

#### Other Provisions:

- Charitable Deduction for Food Inventory: Permits taxpayers engaged in a trade or business to claim an enhanced deduction (lesser of two times the cost or cost plus 1/2 of market value) for food donations. Currently they can only claim a deduction of the actual cost. (\$626 million over ten years)
- Excise Tax on Private Foundations: Replaces the current two-tier tax (1% and 2% depending on certain conditions) on net investment income of private foundations with a single 1% rate. (\$2.2 billion over ten years)
- Trusts: Modifies excise tax on unrelated business income of charitable trusts (\$55 million over ten years)
- Donation of Computers and Scientific Equipment: Expands eligible deduction to include computers and equipment assembled by the taxpayer. (\$10 million over ten years)
- S Corporations: Permits the adjustment of the basis of S Corporation Stock for charitable contributions. (\$397 million over ten years)

### **Individual Development Accounts (IDA):**

The bill makes a number of modifications to the Individual Development Account (IDA) demonstration program established in 1998. Currently, the demonstration program provides direct Federal funds to nonprofit organizations, States and localities, community-development financial institutions, and certain credit unions to match the amount of earnings deposited by eligible individuals. Grantees must provide non-Federal-matching funds (one dollar per Federal grant dollar). Eligible persons are those (1) who are eligible under the Temporary Assistance for Needy Families program, or (2) whose household net worth is below \$10,000 ("net worth test"), and who meet the greater of (a) the income limits of the earned income credit (taking into account the size of the household) or (b) 200 percent of the poverty guideline ("income test"). Each participant is eligible to receive up to \$2,000 in Federal funds and households may receive no more than \$4,000 in Federal grant funds over the course of the project. The projects must create trust or custodial accounts that permit withdrawals of account balances only for three designated purposes: (1) first home purchase, (2) business capitalization, and (3) postsecondary education. Emergency withdrawals (from the account holder's own deposits only) are allowed for three conditions -- medical expenses, prevention of eviction or mortgage foreclosure, and living expenses after job losses.

#### Proposed Changes:

- Eliminate all references to IDAs as a "demonstration program," converting it to a permanent program.
- Raise the net worth eligibility limit from \$10,000 to \$20,000, increasing the number of eligible participants
- Eliminate the household cap on deposits
- Eliminate the lifetime cap of \$2,000 of federal funds per participant and replace it with an annual cap of \$500
- Extend the program through 2008 and double the authorization to \$50 million a year.

## **Liability Reform:**

The bill expands upon past efforts to provide liability protection for those doing charitable work by extending the limited liability protection to corporations for in-kind contributions. The bill provides civil liability protection in cases except where the act or omission causing harm constitutes gross negligence or intentional misconduct. The bill preempts all State laws that provide less protection unless a State passes a stand-alone bill declaring that they are not subject to the provisions of this section.

The reference to hate crimes that had appeared in earlier drafts of this section has been removed.

## **Other Information:**

**Cost to the Taxpayer:** Assuming the appropriation of authorized funds (for the Individual Development Accounts), the bill would cost taxpayers \$300 million between 2003 and 2008 as compared to current law.

**Does the Bill Create New Federal Programs or Rules?:** The bill modifies the operation of current government programs by proscribing how faith-based groups may receive funding, authorizes the creation of a program to provide nongovernmental entities assistance in establishing 501(c)3 organizations and complying with certain other laws, and expands the IDA program.

**Constitutional Authority:** The Judiciary Committee cites Constitutional authority found in Article I, Section 8, Clauses 1 (general welfare), 3 (regulate commerce), and 18 (make all laws necessary and proper) of the Constitution. The Ways and Means Committee cites Constitutional authority found in Article I, Section 8 (lay and collect taxes), and from the 16<sup>th</sup> Amendment (income tax).

**Rangel, Conyers, Frank, Nadler, Edwards, Scott Substitute Amendment:** Makes the following major changes to the base bill:

- Raises taxes on individuals and small businesses that pay at the individual rate by increasing the top individual tax rate by 0.2%.
  - Eliminates the protection faith-based groups already have under current civil rights law to discriminate in the hiring of staff based on sincerely held religious beliefs
  - Inserts a new provision which proponents argue is designed to preserve state and local civil rights law, but in reality would actually permit such laws to trump federal law, permitting state and local governments to require faith-based groups (because they receive federal funds) to alter their internal governance, employment policies, etc.
  - Requires that faith-based components of any program be conducted at a different time and place than the non-faith-based components
  - Eliminates the provision authorizing programs to be converted into indirect assistance programs
  - Deletes the title on liability reform for corporations
- 
-