

National Council on Teacher Retirement - Pension Reform Legislation - 109th Congress

Provision	House Bill (H.R. 2830)	Senate Bill (S. 1783)
Permanency issue	Makes permanent the <i>pension</i> provisions of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA). Under current law, the pension (and other provisions) of EGTRRA will sunset after 2010. Such provisions include the portability enhancements supported by NCTR. The enhancements include 1) allowing 403(b) and 457 funds on a pre-tax basis for the purchase of service credit; and 2) allowing the rollover funds among 403(b)s, 457s, and 401(k)s. Permanency is a top NCTR legislative priority. (S 901)	
Savers' Credit	Makes permanent the Saver's Credit that provides incentives for lower income workers to participate in retirement plans. (S902)	None
Automatic Enrollment	Makes it easier for employers to offer to their employees automatic enrollment in defined contribution plans (while not entirely clear, the provision appears to apply to 401(k)s, but not 457s and 403(b)s). (S903)	Allows automatic enrollment via an amendment to the 401(k)-nondiscrimination rules, which are inapplicable to governmental plans. Thus, provision does not likely apply to such plans. (S1108)
Withdrawals by Reservists or National Guard Members	Waives 10% penalty on distributions of IRAs or pension plans for military reservists and national guard members called up for active duty for at least 179 days. Affected individuals could repay the IRA or pension plan within two years of the distribution. (S904)	None
Waiver of 10% penalty for distributions made to public safety employees in connection with DROPs and similar benefits. (DROP stands for "deferred retirement option plan." DROPs allow individuals to receive a portion of their retirement benefit as a lump sum.)	Allows exception to 10% early withdrawal penalty for distributions from DROPs and similar benefits to public safety employees. Provides a federal definition of a DROP benefit, which is problematic as DROPs have a variety of features and the definition may not cover all of them. (S905)	Waives the penalty for public safety employees participating in DROPs and similar benefits who retire between ages 50 and 55. It does not define DROPs. Under current law, the age is 55. (S1004)

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Purchase of Service Credit Clarifications	None	<p>Clarifies purchase of service credit provisions (code Section 415(n)) that:</p> <ul style="list-style-type: none"> -purchases of service credit (PSC) for periods for which there is no performance of service is allowable. -PSA may include service credited in order to provide an increased benefit for service credit that the participant is receiving under the plan, i.e., benefit to which the participant is not otherwise entitled; -a trustee-to-trustee transfer of 403(b) and 457 funds into a governmental defined benefit plan for purchase of PSC is not subject to the limits applicable to non-qualified service, also known as air time. The following limits apply to non-qualified service: not more than 5 years of non-qualified PSC and a participant must have 5 years of participation in the plan; -once 403(b)/457 funds are transferred to a governmental defined benefit plan, they take on the rules of such a plan; and -a transfer need not be made between plans maintained by same employer. (S1001)
After-Tax Contributions into Defined Benefit Plans	None	<p>Allows defined benefit plans to accept after-tax rollovers, if they so wish, provided that they separately track the after-tax funds from the pre-tax funds. At present, defined contribution plans may accept these types of rollovers. (S1002)</p>

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Application of Minimum Distribution Rules (MDRs) to Governmental Plans	None	Permits governmental retirement plans to be deemed as having complied with the MDRs of Code Section 401(a)(9) if they follow a reasonable good faith interpretation. Directs Treasury Secretary to issue regulations to that effect. (S1003)
Eligibility of State and Local Governments to Maintain 401(k) Plans	None	Allows state and local governments (SLGs) to offer 401(k) plans. Congress closed off SLGs' right to do so in the Tax Reform Act of 1986, but grandfathered 401(k)s already in effect. For new 401(k) plans, limit on individual's elective deferrals reduced by contributions to 457 plan (i.e., "coordinated"). Grandfathered plans not affected by coordination rule. (S1337)
Cash Balance Plans	Clarifies legality of cash balance and hybrid plans. Affects private plans only. (S701)	Clarifies legality of cash balance and hybrid plans, but language in bill may adversely affect 1) any such plans provided by state and local governments and 2) interest-bearing accounts in defined benefit plans. (S601) For more information, click here http://www.nctr.org/pdf/fedupd2005_32.pdf and scroll down to David Powell's memo on pages 6-7.
Non-Governmental Plan Issues of Interest		
Voluntary Early Retirement Incentive Plans of Local Educational Agencies	None	Allows local educational agencies to offer certain types of voluntary early retirement incentive plans. (S1104)
Tax-Free Distributions for Public Safety Officers for Purchases of Health and Long Term Care (LTC) Insurance	Permits public safety officers who retire or become disabled to make tax-free distributions of up to \$5,000 annually from governmental pension plans if the distribution is used to purchase health or LTC insurance. (S1003)	None