

109TH CONGRESS  
1ST SESSION

# H. R. 2177

To amend the Internal Revenue Code of 1986 to permit tax-free distributions from governmental retirement plans for premiums for health and long-term care insurance for public safety officers.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2005

Mr. CHOCOLA (for himself, Mr. NEAL of Massachusetts, Mr. SHAW, Mr. McCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. HAYWORTH, Mr. WELLER, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. REYNOLDS, Mr. RYAN of Wisconsin, Mr. CANTOR, Mr. BEAUPREZ, Ms. HART, Mr. CARDIN, Mr. LEWIS of Georgia, Mr. McNULTY, Mr. JEFFERSON, Mr. ACKERMAN, Mr. ALEXANDER, Mr. BACA, Mr. BACHUS, Mr. BISHOP of New York, Mr. BONILLA, Mr. BOOZMAN, Mr. BURTON of Indiana, Mr. BUYER, Mr. CARTER, Mr. CONAWAY, Mr. CULBERSON, Mr. CUNNINGHAM, Mr. DENT, Mr. FERGUSON, Mr. FORD, Mr. GALLEGLY, Mr. GARRETT of New Jersey, Mr. GERLACH, Mr. GOODE, Mr. GORDON, Ms. HERSETH, Mr. HIGGINS, Mr. KENNEDY of Minnesota, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KLINE, Mr. LATHAM, Mr. LYNCH, Mrs. MCCARTHY, Mr. MCGOVERN, Mr. MCHUGH, Mrs. MILLER of Michigan, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. PENCE, Mr. PITTS, Mr. PORTER, Mr. ROGERS of Michigan, Ms. ROYBAL-ALLARD, Mr. SHADEGG, Mr. SHIMKUS, Mr. SMITH of Washington, Mr. TERRY, Mr. THORNBERRY, Mr. VAN HOLLEN, and Mr. WILSON of South Carolina) 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 permit tax-free distributions from governmental retirement plans for premiums for health and long-term care insurance for public safety officers.

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. SHORT TITLE.**

4 This Act may be cited as the “Healthcare Enhance-  
 5 ment for Local Public Safety Retirees Act of 2005” or  
 6 the “HELPS Retirees Act of 2005”.

7 **SEC. 2. DISTRIBUTIONS FROM GOVERNMENTAL RETIRE-**  
 8 **MENT PLANS FOR HEALTH AND LONG-TERM**  
 9 **CARE INSURANCE FOR PUBLIC SAFETY OFFI-**  
 10 **CERS.**

11 (a) IN GENERAL.—Section 402 of the Internal Rev-  
 12 enue Code of 1986 (relating to taxability of beneficiary  
 13 of employees’ trust) is amended by adding at the end the  
 14 following new subsection:

15 “(l) DISTRIBUTIONS FROM GOVERNMENTAL PLANS  
 16 FOR HEALTH AND LONG-TERM CARE INSURANCE.—

17 “(1) IN GENERAL.—In the case of an employee  
 18 who is an eligible retired public safety officer who  
 19 makes the election described in paragraph (6) with  
 20 respect to any taxable year of such employee, gross  
 21 income of such employee for such taxable year does  
 22 not include any distribution from an eligible retire-  
 23 ment plan to the extent that the aggregate amount  
 24 of such distributions does not exceed the amount  
 25 paid by such employee for qualified health insurance

1 premiums of the employee, his spouse, or dependents  
2 (as defined in section 152) for such taxable year.

3 “(2) LIMITATION.—The amount which may be  
4 excluded from gross income for the taxable year by  
5 reason of paragraph (1) shall not exceed \$5,000.

6 “(3) DISTRIBUTIONS MUST OTHERWISE BE IN-  
7 CLUDIBLE.—

8 “(A) IN GENERAL.—An amount shall be  
9 treated as a distribution for purposes of para-  
10 graph (1) only to the extent that such amount  
11 would be includible in gross income without re-  
12 gard to paragraph (1).

13 “(B) APPLICATION OF SECTION 72.—Not-  
14 withstanding section 72, in determining the ex-  
15 tent to which an amount is treated as a dis-  
16 tribution for purposes of subparagraph (A), the  
17 aggregate amounts distributed from an eligible  
18 retirement plan in a taxable year shall be treat-  
19 ed as includible in gross income (without regard  
20 to subparagraph (A)) to the extent that such  
21 amount does not exceed the aggregate amount  
22 which would have been so includible if all  
23 amounts distributed from all eligible retirement  
24 plans were treated as 1 contract for purposes of  
25 determining the inclusion of such distribution

1 under section 72. Proper adjustments shall be  
2 made in applying section 72 to other distribu-  
3 tions in such taxable year and subsequent tax-  
4 able years.

5 “(4) DEFINITIONS.—For purposes of this sub-  
6 section—

7 “(A) ELIGIBLE RETIREMENT PLAN.—For  
8 purposes of paragraph (1), the term ‘eligible re-  
9 tirement plan’ means a governmental plan  
10 (within the meaning of section 414(d)) which is  
11 described in clause (iii), (iv), (v), or (vi) of sub-  
12 section (c)(8)(B).

13 “(B) ELIGIBLE RETIRED PUBLIC SAFETY  
14 OFFICER.—The term ‘eligible retired public  
15 safety officer’ means an individual who, by rea-  
16 son of disability or attainment of normal retire-  
17 ment age, is separated from service as a public  
18 safety officer with the employer who maintains  
19 the eligible retirement plan from which distribu-  
20 tions subject to paragraph (1) are made.

21 “(C) PUBLIC SAFETY OFFICER.—The term  
22 ‘public safety officer’ shall have the same mean-  
23 ing given such term by section 1204(8)(A) of  
24 the Omnibus Crime Control and Safe Streets  
25 Act of 1968 (42 U.S.C. 3796b(8)(A)).

1           “(D) QUALIFIED HEALTH INSURANCE  
2           PREMIUMS.—The term ‘qualified health insur-  
3           ance premiums’ means premiums for coverage  
4           for the eligible retired public safety officer, his  
5           spouse, and dependents, by an accident or  
6           health insurance plan or qualified long-term  
7           care insurance contract (as defined in section  
8           7702B(b)).

9           “(5) SPECIAL RULES.—For purposes of this  
10          subsection—

11           “(A) DIRECT PAYMENT TO INSURER RE-  
12           QUIRED.—Paragraph (1) shall only apply to a  
13           distribution if payment of the premiums is  
14           made directly to the provider of the accident or  
15           health insurance plan or qualified long-term  
16           care insurance contract by deduction from a  
17           distribution from the eligible retirement plan.

18           “(B) RELATED PLANS TREATED AS 1.—All  
19           eligible retirement plans of an employer shall be  
20           treated as a single plan.

21           “(6) ELECTION DESCRIBED.—

22           “(A) IN GENERAL.—For purposes of para-  
23           graph (1), an election is described in this para-  
24           graph if the election is made by an employee  
25           after separation from service with respect to

1 amounts not distributed from an eligible retire-  
2 ment plan to have amounts from such plan dis-  
3 tributed in order to pay for qualified health in-  
4 surance premiums.

5 “(B) SPECIAL RULE.—A plan shall not be  
6 treated as violating the requirements of section  
7 401, or as engaging in a prohibited transaction  
8 for purposes of section 503(b), merely because  
9 it provides for an election with respect to  
10 amounts that are otherwise distributable under  
11 the plan or merely because of a distribution  
12 made pursuant to an election described in sub-  
13 paragraph (A).

14 “(7) COORDINATION WITH MEDICAL EXPENSE  
15 DEDUCTION.—The amounts excluded from gross in-  
16 come under paragraph (1) shall not be taken into  
17 account under section 213.

18 “(8) COORDINATION WITH DEDUCTION FOR  
19 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
20 DIVIDUALS.—The amounts excluded from gross in-  
21 come under paragraph (1) shall not be taken into  
22 account under section 162(l).”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 403(a) of such Code (relating to  
25 taxability of beneficiary under a qualified annuity

1 plan) is amended by inserting after paragraph (1)  
2 the following new paragraph:

3 “(2) SPECIAL RULE FOR HEALTH AND LONG-  
4 TERM CARE INSURANCE.—To the extent provided in  
5 section 402(l), paragraph (1) shall not apply to the  
6 amount distributed under the contract which is oth-  
7 erwise includible in gross income under this sub-  
8 section.”.

9 (2) Section 403(b) of such Code (relating to  
10 taxability of beneficiary under annuity purchased by  
11 section 501(c)(3) organization or public school) is  
12 amended by inserting after paragraph (1) the fol-  
13 lowing new paragraph:

14 “(2) SPECIAL RULE FOR HEALTH AND LONG-  
15 TERM CARE INSURANCE.—To the extent provided in  
16 section 402(l), paragraph (1) shall not apply to the  
17 amount distributed under the contract which is oth-  
18 erwise includible in gross income under this sub-  
19 section.”.

20 (3) Section 457(a) of such Code (relating to  
21 year of inclusion in gross income) is amended by  
22 adding at the end the following new paragraph:

23 “(3) SPECIAL RULE FOR HEALTH AND LONG-  
24 TERM CARE INSURANCE.—To the extent provided in  
25 section 402(l), paragraph (1) shall not apply to

1        amounts otherwise includible in gross income under  
2        this subsection.”.

3        (c) EFFECTIVE DATE.—The amendments made by  
4        this section shall apply to distributions in taxable years  
5        beginning after December 31, 2004.

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