

The Retirement Fairness for Charities and Educational Institutions Act



Give Nurses, Teachers, and Nonprofit Employees the Same Retirement Options as 401(k) Savers

Summary

The **Retirement Fairness for Charities and Educational Institutions Act** is bipartisan legislation that ensures Americans working in education, health care, and other tax-exempt organizations can have access to the same investment products in their employer-sponsored retirement accounts as everyone else.

Background

Many educators, nurses, and nonprofit employees save for retirement using an employer-sponsored 403(b) plan, which is essentially their version of the well-known 401(k). However, while 401(k) participants can invest in collective investment trusts (CITs)—cost-efficient pooled investment products that offer similar investment strategies as mutual funds—403(b) participants are unable to do so.

CITs benefit from regulatory oversight provided by the Office of the Comptroller of the Currency or other federal or state banking regulators, the Internal Revenue Service, and the Department of Labor. This investment option has been used in the Thrift Savings Plan available to Congress and federal government employees.

The SECURE 2.0 Act amended the Internal Revenue Code to create CIT parity on a tax level between 401(k) and 403(b) plans but did not include the additional changes needed under federal securities laws.

Why It Matters

The bipartisan Retirement Fairness for Charities and Educational Institutions Act, reintroduced in both the U.S. House of Representatives and U.S. Senate during the 119th Congress, offers a critical opportunity to provide a level playing field for 403(b) plan participants. Enactment of this legislation would ensure that millions of Americans working for public schools and nonprofit organizations can access the same variety of investment options and potential cost savings that 401(k) plan participants have enjoyed for years.

Critical Investor Protections

In addition to strong agency regulatory oversight, this legislation will help ensure that there is a fiduciary responsible for the selection and oversight of any CIT made available in a 403(b) plan.

The bill requires that either:

- » The 403(b) plan be subject to longstanding benefits law—namely, Title I of ERISA—and thus make the 403(b)-sponsoring employer a fiduciary under ERISA;
- » Any employer offering a plan agrees to serve as a fiduciary with respect to the selection of the plan's investments; or
- » The plan is a governmental plan.

The Bottom Line

Educators, nurses, and nonprofit workers deserve access to the same broad range of cost-efficient and diversified investment options available to private sector 401(k) savers. By passing this legislation, Congress can eliminate inequality in retirement plans and provide parity for 403(b) plan participants.