

H.R. 3063, the Retirement Fairness for Charities and Educational Institutions Act of 2023

Give Nurses, Teachers, and First Responders the Same Retirement Options as 401(k) Savers

SUMMARY

Bipartisan legislation that ensures people working in education, charitable organizations, public service, and certain types of health care can have access to the same investment products in their employer-sponsored retirement accounts as everyone else.

BACKGROUND

Many public service 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 often 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 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 of 2023 (H.R. 3063), introduced by Reps. Frank Lucas (R-OK-3), Josh Gottheimer (D-NJ-5), Bill Foster (D-IL-11), and Andy Barr (R-KY-6), offers a critical opportunity to provide parity for 403(b) plan participants.

H.R. 3063 would provide the additional amendments to the federal securities laws that are necessary to allow 403(b) plans to invest in CITs. 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 that 401(k) plan participants have enjoyed for years.

CRITICAL INVESTOR PROTECTIONS

In addition to strong agency regulatory oversight, H.R. 3063 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

Public service 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 H.R. 3063, Congress can eliminate this inequality in retirement plans and provide parity for 403(b) plan participants.