

118TH CONGRESS
1ST SESSION

S. 86

To allow Members of Congress to opt out of the Federal Employees Retirement System, and allow Members who opt out of the Federal Employees Retirement System to continue to participate in the Thrift Savings Plan.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2023

Mr. BRAUN (for himself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To allow Members of Congress to opt out of the Federal Employees Retirement System, and allow Members who opt out of the Federal Employees Retirement System to continue to participate in the Thrift Savings Plan.

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 “Members of Congress
5 Pension Opt Out Clarification Act”.

6 **SEC. 2. MAKING FERS OPTIONAL FOR MEMBERS.**

7 (a) IN GENERAL.—

1 (1) AMENDMENT.—Section 8401(20) of title 5,
 2 United States Code, is amended by striking “, and
 3 who (in the case” and all that follows through
 4 “2004”.

5 (2) APPLICABILITY.—The amendment made by
 6 paragraph (1) shall apply with respect to an indi-
 7 vidual who first serves as a Member of the House
 8 of Representatives, including a Delegate or Resident
 9 Commissioner to the Congress, on or after the date
 10 of enactment of this Act.

11 (b) CONTINUED PARTICIPATION IN TSP.—

12 (1) AMENDMENT.—Section 8401(20) of title 5,
 13 United States Code, as amended by subsection (a),
 14 is further amended—

15 (A) by striking “term ‘Member’ has the
 16 same meaning as provided in” and inserting the
 17 following: “term ‘Member’—

18 “(A) has the meaning given the term ‘Member
 19 of Congress’ under”;

20 (B) by inserting “, subject to subpara-
 21 graph (B),” after “except that”;

22 (C) by adding “and” after the semicolon at
 23 the end; and

24 (D) by adding at the end the following:

1 “(B) for purposes of subchapter III, has the
2 meaning given the term ‘Member of Congress’ under
3 section 2106, without regard to whether the indi-
4 vidual elects not to participate in the Federal Em-
5 ployees’ Retirement System;”.

6 (2) CONFORMING AMENDMENT TO TSP.—Sec-
7 tion 8431(a) of title 5, United States Code, is
8 amended by inserting “except as provided in section
9 8401(20)(B),” after “subchapter,”.

10 (3) APPLICABILITY.—The amendments made
11 by this subsection shall apply with respect to an in-
12 dividual who makes an election described in section
13 8401(20) of title 5, United States Code, not to par-
14 ticipate in the Federal Employees’ Retirement Sys-
15 tem before, on, or after the date of enactment of this
16 Act.

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