

116TH CONGRESS
1ST SESSION

S. 439

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Members of Congress
3 Pension Opt Out Clarification Act”.

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

5 (a) IN GENERAL.—

6 (1) AMENDMENT.—Section 8401(20) of title 5,
7 United States Code, is amended by striking “, and
8 who (in the case” and all that follows through
9 “2004”.

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

16 (b) CONTINUED PARTICIPATION IN TSP.—

17 (1) AMENDMENT.—Section 8401(20) of title 5,
18 United States Code, as amended by subsection (a),
19 is further amended—

20 (A) by striking “term ‘Member’ has” and
21 inserting the following: “term ‘Member’—

22 “(A) has”;

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

25 (C) by adding “and” after the semicolon at
26 the end; and

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

2 “(B) for purposes of subchapter III, has the
3 same meaning as provided in section 2106, without
4 regard to whether the individual elects not to partici-
5 pate in the Federal Employees’ Retirement Sys-
6 tem;”.

7 (2) CONFORMING AMENDMENT TO TSP.—Sec-
8 tion 8431(a) of title 5, United States Code, is
9 amended by inserting “except as provided in section
10 8401(20)(B),” after “subchapter,”.

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

Passed the Senate December 19, 2019.

Attest:

Secretary.

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