

117TH CONGRESS  
1ST SESSION

# H. R. 2741

To modify rules relating to 403(b) plans.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2021

Mr. PANETTA (for himself, Mr. ESTES, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. LAHOOD, Ms. DEAN, and Mr. BARR) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To modify rules relating to 403(b) plans.

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 “Public Service Retire-  
5 ment Fairness Act of 2021”.

6 **SEC. 2. ENHANCEMENT OF 403(b) PLANS.**

7 (a) PERMITTED INVESTMENTS.—

8 (1) IN GENERAL.—Section 403(b)(7)(A)(i) of  
9 the Internal Revenue Code of 1986 is amended to  
10 read as follows:

1           “(i) the amounts to be held in that  
2           custodial account are invested in regulated  
3           investment company stock or a group trust  
4           intended to satisfy the requirements of In-  
5           ternal Revenue Service Revenue Ruling  
6           81–100 (or any successor guidance), and”.

7           (2) CONFORMING AMENDMENT.—Section  
8           403(b)(7) of such Code is amended by striking “FOR  
9           REGULATED INVESTMENT COMPANY STOCK”.

10          (3) EFFECTIVE DATE.—The amendments made  
11          by this subsection shall apply to amounts invested  
12          after December 31, 2020.

13          (b) AMENDMENTS TO THE INVESTMENT COMPANY  
14          ACT OF 1940.—Section 3(c)(11) of the Investment Com-  
15          pany Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended  
16          to read as follows:

17                 “(11) Any—

18                         “(A) employee’s stock bonus, pension, or  
19                         profit-sharing trust which meets the require-  
20                         ments for qualification under section 401 of the  
21                         Internal Revenue Code of 1986;

22                         “(B) custodial account meeting the re-  
23                         quirements of section 403(b)(7) of such Code;

24                         “(C) governmental plan described in sec-  
25                         tion 3(a)(2)(C) of the Securities Act of 1933;

1           “(D) collective trust fund maintained by a  
2 bank consisting solely of assets of one or more  
3 of such trusts, government plans, or church  
4 plans, companies or accounts that are excluded  
5 from the definition of an investment company  
6 under paragraph (14) of this subsection;

7           “(E) plan which meets the requirements of  
8 section 403(b) of the Internal Revenue Code of  
9 1986 if—

10                   “(i) such plan is subject to title I of  
11 the Employee Retirement Income Security  
12 Act of 1974 (29 U.S.C. 1001 et seq.);

13                   “(ii) any employer making such plan  
14 available agrees to serve as a fiduciary for  
15 the plan with respect to the selection of the  
16 plan’s investments among which partici-  
17 pants can choose; or

18                   “(iii) such plan is a governmental  
19 plan (as defined in section 414(d) of such  
20 Code); or

21           “(F) separate account the assets of which  
22 are derived solely from—

23                   “(i) contributions under pension or  
24 profit-sharing plans which meet the re-  
25 quirements of section 401 of the Internal

1 Revenue Code of 1986 or the requirements  
2 for deduction of the employer's contribu-  
3 tion under section 404(a)(2) of such Code;

4 “(ii) contributions under govern-  
5 mental plans in connection with which in-  
6 terests, participations, or securities are ex-  
7 empted from the registration provisions of  
8 section 5 of the Securities Act of 1933 by  
9 section 3(a)(2)(C) of such Act;

10 “(iii) advances made by an insurance  
11 company in connection with the operation  
12 of such separate account; and

13 “(iv) contributions to a plan described  
14 in subparagraph (E).”.

15 (c) AMENDMENTS TO THE SECURITIES ACT OF  
16 1933.—Section 3(a)(2) of the Securities Act of 1933 (15  
17 U.S.C. 77c(a)(2)) is amended—

18 (1) by striking “or (D)” and inserting “(D) a  
19 plan which meets the requirements of section 403(b)  
20 of such Code if (i) such plan is subject to title I of  
21 the Employee Retirement Income Security Act of  
22 1974 (29 U.S.C. 1001 et seq.), (ii) any employer  
23 making such plan available agrees to serve as a fidu-  
24 ciary for the plan with respect to the selection of the  
25 plan's investments among which participants can

1 choose, or (iii) such plan is a governmental plan (as  
2 defined in section 414(d) of such Code); or (E)”;

3 (2) by striking “(C), or (D)” and inserting  
4 “(C), (D), or (E)”; and

5 (3) by striking “(iii) which is a plan funded”  
6 and inserting “(iii) in the case of a plan not de-  
7 scribed in subparagraph (D), which is a plan fund-  
8 ed”.

9 (d) AMENDMENTS TO THE SECURITIES EXCHANGE  
10 ACT OF 1934.—Section 3(a)(12)(C) of the Securities Ex-  
11 change Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amend-  
12 ed—

13 (1) by striking “or (iv)” and inserting “(iv) a  
14 plan which meets the requirements of section 403(b)  
15 of such Code if (I) such plan is subject to title I of  
16 the Employee Retirement Income Security Act of  
17 1974 (29 U.S.C. 1001 et seq.), (II) any employer  
18 making such plan available agrees to serve as a fidu-  
19 ciary for the plan with respect to the selection of the  
20 plan’s investments among which participants can  
21 choose, or (III) such plan is a governmental plan (as  
22 defined in section 414(d) of such Code), or (v)”;

23 (2) by striking “(ii), or (iii)” and inserting  
24 “(ii), (iii), or (iv)”; and

1           (3) by striking “(II) is a plan funded” and in-  
2           serting “(II) in the case of a plan not described in  
3           clause (iv), is a plan funded”.

○