

403(b) Retirement Fairness

Putting Nonprofit and Faith-Based
Workers on Equal Footing

● CEA POSITION
SUPPORT

8.2/10

FIVE FREEDOMS SCORE

302-123

HOUSE VOTE (H.R. 3383)

37%

OF 401(K) ASSETS IN CITS

Executive Summary

Millions of Americans who work for nonprofit organizations, schools, hospitals, charities, ministries, and other tax-exempt employers save for retirement through 403(b) plans. Yet federal law continues to restrict many of those plans from offering the same institutional investment vehicles commonly available to employees participating in 401(k) plans.

The central issue is access to **collective investment trusts (CITs)** and certain insurance company separate accounts. CITs are pooled institutional investment vehicles commonly used by 401(k) plans that can provide greater flexibility, institutional pricing, and potentially lower investment expenses.

THE CORE PROBLEM

Congress took an important step in SECURE 2.0 (2022), Section 128, allowing 403(b) custodial accounts to participate in group trusts under the Internal Revenue Code. But Congress did not make corresponding changes to federal securities laws. Without amendments to the Securities Act of 1933, Securities Exchange Act of 1934, and Investment Company Act of 1940, most 403(b) plans remain unable to take advantage of the reform Congress intended.

There is now substantial bipartisan momentum to correct this problem. The **Retirement Fairness for Charities and Educational Institutions Act of 2025** (H.R. 1013 / S. 424) would complete the securities-law changes. The House Financial Services Committee approved H.R. 1013 by a bipartisan **43 to 8 vote**. The broader INVEST Act (H.R. 3383) passed the full House on December 11, 2025 by **302 to 123**, including 87 Democrats.

Senate Banking Committee Chairman Tim Scott joined S. 424 as a cosponsor in July 2026. The committee held an August 6, 2026 hearing addressing capital-market reforms that included 403(b) access to CITs. **The immediate legislative opportunity is in the United States Senate.**

The Policy Problem

Two Workers, Two Sets of Retirement Rules

EMPLOYEE A — 401(K)

Works for a **private company**.

May have access to institutional investment options such as **collective investment trusts**.

EMPLOYEE B — 403(B)

Works for a **nonprofit hospital, Christian school, charity, ministry, or university**.

Generally does **not** have access to CITs. The difference is a product of federal law, not investment suitability.

What Is a CIT?

A collective investment trust is an investment vehicle maintained by a bank or trust company that pools assets from qualifying institutional investors, including retirement plans. CITs are not retail mutual funds. They can offer advantages including:

- Institutional pricing
- Greater flexibility in investment design
- Customized investment strategies
- Potentially lower expenses
- Access to institutional asset managers
- Additional options for plan fiduciaries

A July 2026 coalition letter to Senate Banking leaders reported that CITs account for approximately **37 percent of 401(k) plan assets**. The policy question is not whether government should require nonprofit retirement plans to invest in CITs — it is whether government should continue to **prohibit many 403(b) plans from even having that option**.

BACKGROUND

Congress Fixed Half the Problem

Congress attempted to modernize 403(b) investment rules through the **SECURE 2.0 Act of 2022**. Section 128 amended the Internal Revenue Code so that 403(b) custodial accounts could participate in certain group trusts. But a CIT is governed by more than the tax code.



Tax Door: OPEN

SECURE 2.0, Section 128 amended the Internal Revenue Code to permit 403(b) custodial accounts to participate in group trusts.



Securities Door: CLOSED

The Securities Act of 1933, Securities Exchange Act of 1934, and Investment Company Act of 1940 were not amended. Most 403(b) plans remain unable to invest in CITs.

CRS FINDING

"Despite the tax-code change, without corresponding securities-law amendments, 403(b) plans remain unable to invest in CITs."

Congressional Research Service

Congress therefore opened the tax door but left the securities-law door closed. The current legislation is designed to finish that work. H.R. 1013, S. 424, and Section 202 of H.R. 3383 would make the corresponding securities-law amendments that SECURE 2.0 did not include.

Current Legislative Vehicles

H.R. 1013

Retirement Fairness for Charities and Educational Institutions Act of 2025

Sponsor: Rep. Frank Lucas (R-OK) | **Cosponsors:** Reps. Gottheimer (D-NJ), Foster (D-IL), Barr (R-KY)

Directly amends federal securities law — the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934 — to expand investment options available to qualifying 403(b) plans.

Approved Committee 43–8 (May 20, 2025)

Status: Reported from House Financial Services

CEA: Strong Support

S. 424

Retirement Fairness for Charities and Educational Institutions Act of 2025

Sponsor: Sen. Katie Britt (R-AL) | **Cosponsors:** Sens. Warnock (D-GA), Cassidy (R-LA), Peters (D-MI), + **Chairman Tim Scott (R-SC, July 2026)**

The companion Senate measure. Senate Banking Committee Chairman Tim Scott joined as cosponsor in July 2026. The Senate Banking Committee held an August 6, 2026 hearing — "Empowering Main Street by Unlocking Access to Capital" — that included the 403(b)/CIT parity issue.

Chairman Scott now a cosponsor (July 2026)

Status: Pending Senate Banking

CEA: Strong Support — Primary Vehicle

H.R. 3383**INVEST Act (§202 contains 403(b) provisions)**

Full title: Incentivizing New Ventures and Economic Strength Through Capital Formation Act

Section 202 incorporates the Retirement Fairness provisions. Passed the full House December 11, 2025 by **302 to 123** — including 87 House Democrats. Received by Senate December 15, 2025; referred to Senate Banking. The House has therefore already passed the substance of the 403(b) reform. The remaining challenge is Senate action.

Passed House 302–123 (Dec 11, 2025)**Status: Passed House; Pending Senate Banking****CEA: Support §202 Provisions****CONTEXT**

Legislative History

The current effort is not a new proposal. Versions of the policy have appeared repeatedly across several Congresses, demonstrating sustained bipartisan interest rather than a sudden deregulatory initiative.

Congress	Legislation	Significance
119th	H.R. 1013	Current House standalone bill
119th	S. 424	Current Senate standalone bill
119th	H.R. 3383	House-passed INVEST Act — §202 contains the reform
118th	H.R. 3063	Previous House Retirement Fairness bill
118th	S. 4917	Previous Senate Retirement Fairness bill
118th	H.R. 2799	Capital-markets package carrying 403(b) CIT reform
118th	S. 5139	Sen. Scott's Empowering Main Street package
117th	H.R. 2741	Public Service Retirement Fairness Act
117th	S. 1770	Retirement Security and Savings Act

Congress	Legislation	Significance
116th	H.R. 6257	Earlier Public Service Retirement Fairness proposal
116th	S. 1431	Earlier Senate retirement package with 403(b) modernization

EMPLOYER IMPACT

Why the Issue Matters to Employers



Competition for Workers

Schools, hospitals, charities, and faith-based organizations compete with private businesses for accountants, technology workers, medical professionals, and executives. Benefits are part of compensation. Federal policy that restricts nonprofit retirement options places these employers at a competitive disadvantage.



Retirement Costs Matter

Investment expenses compound over decades. The stronger policy argument: 403(b) fiduciaries should be allowed to evaluate the same broad range of institutional options available to 401(k) fiduciaries. That is a choice-based argument, not an investment-performance prediction.



Employer Flexibility

The legislation does not require an employer to offer a CIT. It expands the menu of legally permissible options. Employers and fiduciaries retain full responsibility for investment selection, fees, risk assessment, and participant interests.

THE FAITH AND NONPROFIT DIMENSION

Workers who choose careers in education, healthcare, charity, ministry, and public service should not be placed at an unnecessary retirement disadvantage because of the mission of their employer. Faith-based organizations should be free to build competitive compensation and retirement programs without unnecessary distinctions imposed by federal securities law. Note: certain 403(b)(9) retirement income accounts used by church organizations already receive different statutory treatment — the reform focuses on closing the gap for the broader nonprofit sector.

CEA ASSESSMENT

Five Freedoms Analysis

Economic Freedom

10/10

Removes a government-created barrier, increases competition among retirement investment providers, and creates no new mandates or spending.

Workforce Freedom

9/10

Gives nonprofit employers greater flexibility to provide competitive retirement benefits without a federal benefits mandate — improving recruitment and retention.

Operational Freedom

9/10

Expands investment choices for plan fiduciaries without compelling any particular investment. Employers retain full discretion over plan design and investment selection.

First Freedoms

8/10

Materially benefits churches, ministries, religious schools, and faith-based charities. Score is not higher because the bill applies broadly and does not directly alter religious-liberty law.

Healthcare Freedom

5/10

Nonprofit hospitals and healthcare institutions are significant 403(b) users, so the reform could benefit healthcare employees. However, the legislation does not materially change healthcare markets or the employer-healthcare relationship.

Overall Five Freedoms Score

CEA Policy Alignment: Strong Support

8.2/10

Current Strategic Landscape

House — Not the Obstacle

The substantive policy has demonstrated broad bipartisan support:

43-8 H.R. 1013 in committee

302-123 H.R. 3383 full House passage

Senate — Primary Opportunity

Three plausible congressional paths:

- ① Advance **S. 424** as a standalone bill
- ② Include S. 424 in a larger **Senate capital-markets package**
- ③ Advance or negotiate **H.R. 3383** with 403(b) language preserved

PARALLEL SEC PATH

The SEC has broad exemptive authority under Section 6(c) of the Investment Company Act and parallel provisions of the Securities Exchange Act and Securities Act. The Commission can consider targeted exemptive relief while Congress works toward permanent statutory parity. These strategies are complementary, not competing. SEC Chairman Paul Atkins has emphasized modernization, capital formation, and investor choice as 2026 priorities — 403(b) parity fits naturally within that agenda.

INVESTOR PROTECTION FRAMEWORK

The legislation does not make CITs unrestricted retail investments. Access is tied to retirement plans under fiduciary or governmental structures — plans subject to fiduciary oversight, state/local governmental plans, or employers accepting fiduciary responsibility. **The objective is regulatory parity with fiduciary responsibility, not deregulation without accountability.**

MESSAGING

Recommended Messages

GENERAL AUDIENCE

"Americans should not face a retirement penalty because they choose to serve a church, school, hospital, charity, or nonprofit. Federal law should give 403(b) retirement plans the freedom to consider the same competitive institutional investment options available to millions of 401(k) savers."

FOR POLICYMAKERS

"Congress already started fixing this problem in SECURE 2.0. The Retirement Fairness for Charities and Educational Institutions Act simply finishes the job."

FOR THE FAITH COMMUNITY

"Choosing a career of service should not mean accepting fewer opportunities to build financial security for retirement."

CEA Policy Principles

EQUAL TREATMENT

Workers should not face different retirement rules simply because one works for a nonprofit and another works for a private company.

EMPLOYER CHOICE

The federal government should determine reasonable safeguards, not dictate the investment vehicles an employer-sponsored plan may consider.

FIDUCIARY RESPONSIBILITY

Expanded flexibility should remain coupled with responsibility. Plan fiduciaries continue to evaluate costs, risks, suitability, and participant interests.

FREEDOM TO SERVE

Americans who choose careers in education, healthcare, charity, ministry, and public service should not face an unnecessary retirement disadvantage.

CEA POLICY POSITION

SUPPORT

Five Freedoms Score: 8.2/10

CEA supports modernizing federal law to provide qualifying 403(b) retirement plans access to collective investment trusts and other institutional retirement vehicles under appropriate fiduciary protections. The current distinction between many 401(k) and 403(b) plans is an outdated regulatory barrier rather than a compelling policy difference.

Congress began correcting the disparity through SECURE 2.0 but left the reform incomplete.

The immediate legislative opportunity is in the United States Senate.

LEGISLATIVE PRIORITIES

Primary: S. 424 and preservation of Section 202 of H.R. 3383

Regulatory: SEC consideration of appropriately conditioned exemptive relief

Core Principle: Retirement opportunity should depend on the worker's savings and choices — not the tax status or mission of the worker's employer.

WHAT THIS REFORM DOES NOT DO

- ✗ Mandate CIT investments
- ✗ Create a new federal retirement program
- ✗ Guarantee investment performance
- ✗ Require employers to change their retirement plan
- ✗ Establish a new taxpayer-funded benefit
- ✗ Eliminate fiduciary responsibility

It removes an outdated legal barrier and allows qualified retirement-plan fiduciaries to make the decision.