

S. 439, the Member of Congress Opt-Out Clarification Act
Introduced by Senator Mike Braun on February 12, 2019 (Passed by the U.S. Senate on
December 19, 2019)

Rationale:

Saving for retirement is a perennial source of uncertainty for many Americans, and pensions continue to be phased out in favor of 401(k) and other savings plans for workers. Senator Braun feels it is imperative that Members of Congress have the option to forego the generous retirement plans offered to Representatives and Senators and opt instead for more conservative, savings-based plan like those of the Americans they represent.

Member Retirement:

- Currently, Members of Congress must contribute to the Federal Employees Retirement System (FERS), which allows a Member to retire at the age of 62 if they have worked for the federal government for five years. Additional years of service can reduce the retirement age.
- Prior to 2012, Members of Congress and their staff contributed a higher percentage to FERS, and they were eligible to earlier retirement with fewer years of service. While the *Middle Class Tax Relief and Job Creation Act of 2012* moved Members and their staff to the same retirement system as other federal employees, Members elected prior to December 31, 2012 are still entitled to earlier retirement with fewer years of service than other federal employees.
- There are currently 276 retired Members of Congress collecting pensions from FERS. On average, this amounts to **\$41,076** annually, without social security.
- Prior to the creation of FERS in 1987, federal employees, including Members of Congress and their staff, were not eligible for social security, but were a part of a generous federal employee pension plan called the Civil Service Retirement System (CSRS). Any Member elected to Congress prior to December 31, 1983, could opt to remain on this plan. There are 335 retired Members of Congress, who are currently collecting pensions on CSRS. On average, they are collecting **\$74,028** annually.

Member Wealth:

- The median minimum net worth of Members of Congress in the 115th Congress [was](#) \$511,000, while the median net worth of an American household in 2016 was \$97,300.
- The collective wealth of Members of Congress in the 115th was at least \$2.43 billion.
- At least 43 Members of Congress in the 115th can be considered millionaires.
- Only 15% of private sector workers [contribute](#) to a DB pension. Even factoring in federal employees, only 23% of all American workers contribute to a traditional pension. This is down from 38% in 1980, as traditional pensions continue to be phased out by private sector companies in favor of 401ks and other savings plans.

The Bill:

S. 439 repeals a line added to the 2004 Appropriations Act that eliminated the option for Members of the U.S. House of Representatives to opt-out of FERS. Additionally, it amends the definition of a Member under 5 U.S.C. 8401 (20) to specify that Members who opt-out of FERS may still participate in a Thrift Savings Plan (TSP), allowing Members to save for their retirement like their constituents without contributing to a plush pension program. Currently, Senators who opt-out of FERS also lose their TSP.