

118TH CONGRESS
2D SESSION

S. 4917

To amend the Federal securities laws to enhance 403(b) plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2024

Mrs. BRITT (for herself, Mr. PETERS, Mr. CASSIDY, and Mr. WARNOCK) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal securities laws to enhance 403(b) plans, and for other purposes.

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 “Retirement Fairness
5 for Charities and Educational Institutions Act of 2024”.

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

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

1 “(11) Any—

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

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

8 “(C) governmental plan described in sec-
9 tion 3(a)(2)(C) of the Securities Act of 1933
10 (15 U.S.C. 77c(a)(2)(C));

11 “(D) collective trust fund maintained by a
12 bank consisting solely of assets of one or
13 more—

14 “(i) trusts described in subparagraph
15 (A);

16 “(ii) government plans described in
17 subparagraph (C);

18 “(iii) church plans, companies, or ac-
19 counts that are excluded from the defini-
20 tion of an investment company under para-
21 graph (14) of this subsection; or

22 “(iv) plans that meet the require-
23 ments of section 403(b) of the Internal
24 Revenue Code of 1986—

25 “(I) if—

1 “(aa) such plan is subject to
2 title I of the Employee Retirement
3 Income Security Act of
4 1974 (29 U.S.C. 1001 et seq.);

5 “(bb) any employer making
6 such plan available agrees to
7 serve as a fiduciary for the plan
8 with respect to the selection of
9 the plan’s investments among
10 which participants can choose; or

11 “(cc) such plan is a govern-
12 mental plan (as defined in sec-
13 tion 414(d) of such Code); and

14 “(II) if the employer, a fiduciary
15 of the plan, or another person acting
16 on behalf of the employer reviews and
17 approves each investment described
18 under subclause (I)(bb) prior to the
19 investment being offered to partici-
20 pants in the plan; or

21 “(E) 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 (15
9 U.S.C. 77e) by section 3(a)(2)(C) of such
10 Act (15 U.S.C. 77c(a)(2)(C));

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

14 “(iv) contributions to a plan described
15 in subparagraph (D)(iv).”.

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

19 (1) by striking “or (D) a” and inserting “(D)
20 a plan which meets the requirements of section
21 403(b) of such Code (i) if (I) such plan is subject
22 to title I of the Employee Retirement Income Secu-
23 rity Act of 1974 (29 U.S.C. 1001 et seq.), (II) any
24 employer making such plan available agrees to serve
25 as a fiduciary for the plan with respect to the selec-

1 tion of the plan’s investments among which partici-
2 pants can choose, or (III) such plan is a govern-
3 mental plan (as defined in section 414(d) of such
4 Code), and (ii) if the employer, a fiduciary of the
5 plan, or another person acting on behalf of the em-
6 ployer reviews and approves each investment de-
7 scribed under clause (i)(II) prior to the investment
8 being offered to participants in the plan, or (E) a”;

9 (2) by striking “(C), or (D)” and inserting
10 “(C), (D), or (E)”; and

11 (3) by striking “(iii) which is a plan funded”
12 and inserting “(iii) in the case of a plan not de-
13 scribed in subparagraph (D), which is a plan fund-
14 ed”.

15 (c) AMENDMENTS TO THE SECURITIES EXCHANGE

16 ACT OF 1934.—Section 3(a)(12)(C) of the Securities Ex-
17 change Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amend-
18 ed—

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

1 plan’s investments among which participants can
2 choose, or (cc) such plan is a governmental plan (as
3 defined in section 414(d) of such Code), and (II) if
4 the employer, a fiduciary of the plan, or another per-
5 son acting on behalf of the employer reviews and ap-
6 proves each investment described under subclause
7 (I)(bb) prior to the investment being offered to par-
8 ticipants in the plan, or (v)”;

9 (2) by striking “(ii), or (iii)” and inserting
10 “(ii), (iii), or (iv)”;

11 (3) by striking “(II) is a plan funded” and in-
12 sserting “(II) in the case of a plan not described in
13 clause (iv), is a plan funded”.

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