II

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Fairness for Charities and Educational Institutions Act of 2024".

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

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

"(11) Any—

"(A) employee's stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1986;

"(B) custodial account meeting the requirements of section 403(b)(7) of such Code;

"(C) governmental plan described in section 3(a)(2)(C) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)(C));

"(D) collective trust fund maintained by a bank consisting solely of assets of one or more—

"(i) trusts described in subparagraph (A);

"(ii) government plans described in subparagraph (C);

"(iii) church plans, companies, or accounts that are excluded from the definition of an investment company under paragraph (14) of this subsection; or

"(iv) plans that meet the requirements of section 403(b) of the Internal Revenue Code of 1986—

"(I) if—

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

"(bb) any employer making such plan available agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments among which participants can choose; or

"(cc) such plan is a governmental plan (as defined in section 414(d) of such Code); and

"(II) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment described under subclause (I)(bb) prior to the investment being offered to participants in the plan; or

"(E) separate account the assets of which are derived solely from—

"(i) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal

Revenue Code of 1986 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code;

"(ii) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 (15 U.S.C. 77e) by section 3(a)(2)(C) of such Act (15 U.S.C. 77c(a)(2)(C));

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

"(iv) contributions to a plan described in subparagraph (D)(iv).".

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

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

tion of the plan's investments among which participants can choose, or (III) such plan is a governmental plan (as defined in section 414(d) of such Code), and (ii) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment described under clause (i)(II) prior to the investment being offered to participants in the plan, or (E) a'';

(2) by striking ''(C), or (D)'' and inserting ''(C), (D), or (E)''; and

(3) by striking ''(iii) which is a plan funded'' and inserting ''(iii) in the case of a plan not described in subparagraph (D), which is a plan funded''.

(c) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amended—

(1) by striking ''or (iv)'' and inserting ''(iv) a plan which meets the requirements of section 403(b) of such Code (I) if (aa) such plan is subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), (bb) any employer making such plan available agrees to serve as a fiduciary for the plan with respect to the selection of the

plan's investments among which participants can choose, or (cc) such plan is a governmental plan (as defined in section 414(d) of such Code), and (II) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment described under subclause (I)(bb) prior to the investment being offered to participants in the plan, or (v)'';

(2) by striking ''(ii), or (iii)'' and inserting ''(ii), (iii), or (iv)''; and

(3) by striking ''(II) is a plan funded'' and inserting ''(II) in the case of a plan not described in clause (iv), is a plan funded''.

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