

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. 77e(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 Retire-
3	ment 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-

- tion of the plan's investments among which participants can choose, or (III) such plan is a govern-
- 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"
- and inserting "(iii) in the case of a plan not de-
- 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
- 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
- 23 of 1974 (29 U.S.C. 1001 et seq.), (bb) any employer
- 24 making such plan available agrees to serve as a fidu-
- ciary for the plan with respect to the selection of the

plan's investments among which participants can 1 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)";

- (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".

 \bigcirc

9

10

11

12

13