

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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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 \_\_\_\_\_

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## 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)"; and

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