

119TH CONGRESS
1ST SESSION

S. 424

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2025

Mrs. BRITT (for herself, Mr. WARNOCK, Mr. CASSIDY, and Mr. PETERS) 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 2025”.

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 which 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 alternative
18 offered under such plan described
19 under subclause (I)(cc) prior to the
20 investment being offered to partici-
21 pants in the plan; or

22 “(E) separate account the assets of which
23 are derived solely from—

24 “(i) contributions under pension or
25 profit-sharing plans which meet the re-

1 requirements of section 401 of the Internal
 2 Revenue Code of 1986 or the requirements
 3 for deduction of the employer's contribu-
 4 tion under section 404(a)(2) of such Code;

5 “(ii) contributions under govern-
 6 mental plans in connection with which in-
 7 terests, participations, or securities are ex-
 8 empted from the registration provisions of
 9 section 5 of the Securities Act of 1933 (15
 10 U.S.C. 77e) by section 3(a)(2)(C) of such
 11 Act (15 U.S.C. 77c(a)(2)(C));

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

15 “(iv) contributions to a plan described
 16 in clause (iii) or (iv) of subparagraph
 17 (D).”.

18 (b) AMENDMENTS TO THE SECURITIES ACT OF
 19 1933.—Section 3(a)(2) of the Securities Act of 1933 (15
 20 U.S.C. 77c(a)(2)) is amended—

21 (1) by striking “beneficiaries, or (D)” and in-
 22 serting “beneficiaries, (D) a plan which meets the
 23 requirements of section 403(b) of such Code (i) if
 24 (I) such plan is subject to title I of the Employee
 25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1001 et seq.), (II) any employer making such plan
2 available agrees to serve as a fiduciary for the plan
3 with respect to the selection of the plan’s invest-
4 ments among which participants can choose, or (III)
5 such plan is a governmental plan (as defined in sec-
6 tion 414(d) of such Code), and (ii) if the employer,
7 a fiduciary of the plan, or another person acting on
8 behalf of the employer reviews and approves each in-
9 vestment alternative offered under any plan de-
10 scribed under clause (i)(III) prior to the investment
11 being offered to participants in the plan, or (E)”;

12 (2) by striking “(C), or (D)” and inserting
13 “(C), (D), or (E)”; and

14 (3) by striking “(iii) which is a plan funded”
15 and all that follows through “retirement income ac-
16 count).” and inserting “(iii) in the case of a plan not
17 described in subparagraph (D) or (E), which is a
18 plan funded by an annuity contract described in sec-
19 tion 403(b) of such Code.”.

20 (c) AMENDMENTS TO THE SECURITIES EXCHANGE
21 ACT OF 1934.—Section 3(a)(12)(C) of the Securities Ex-
22 change Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amend-
23 ed—

24 (1) by striking “or (iv)” and inserting “(iv) a
25 plan which meets the requirements of section 403(b)

1 of such Code (I) if (aa) such plan is subject to title
2 I of the Employee Retirement Income Security Act
3 of 1974 (29 U.S.C. 1001 et seq.), (bb) any employer
4 making such plan available agrees to serve as a fidu-
5 ciary for the plan with respect to the selection of the
6 plan's investments among which participants can
7 choose, or (cc) such plan is a governmental plan (as
8 defined in section 414(d) of such Code), and (II) if
9 the employer, a fiduciary of the plan, or another per-
10 son acting on behalf of the employer reviews and ap-
11 proves each investment alternative offered under any
12 plan described under subclause (I)(cc) prior to the
13 investment being offered to participants in the plan,
14 or (v)";

15 (2) by striking "(ii), or (iii)" and inserting
16 "(ii), (iii), or (iv)"; and

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

20 (d) CONFORMING AMENDMENT TO THE SECURITIES
21 EXCHANGE ACT OF 1934.—Section 12(g)(2)(H) of the
22 Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(2)(H))
23 is amended by striking "or (iii)" and inserting "(iii) a plan
24 described in section 3(a)(12)(C)(iv) of this Act, or (iv)".

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