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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. LUCAS introduced the following bill; which was 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 2023”.

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-

1 pany Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended  
2 to read as follows:

3 “(11) Any—

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

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

10 “(C) governmental plan described in sec-  
11 tion 3(a)(2)(C) of the Securities Act of 1933;

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

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

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

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

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

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

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

11                  “(III) such plan is a govern-  
12                  mental plan (as defined in section  
13                  414(d) of such Code); or

14                  “(E) separate account the assets of which  
15                  are derived solely from—

16                  “(i) contributions under pension or  
17                  profit-sharing plans which meet the re-  
18                  quirements of section 401 of the Internal  
19                  Revenue Code of 1986 or the requirements  
20                  for deduction of the employer’s contribu-  
21                  tion under section 404(a)(2) of such Code;

22                  “(ii) contributions under govern-  
23                  mental plans in connection with which in-  
24                  terests, participations, or securities are ex-  
25                  empted from the registration provisions of

1 section 5 of the Securities Act of 1933 by  
2 section 3(a)(2)(C) of such Act;

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

6 “(iv) contributions to a plan described  
7 in subparagraph (D)(iv).”.

8 (b) AMENDMENTS TO THE SECURITIES ACT OF  
9 1933.—Section 3(a)(2) of the Securities Act of 1933 (15  
10 U.S.C. 77c(a)(2)) is amended—

11 (1) by striking “or (D)” and inserting “(D) a  
12 plan which meets the requirements of section 403(b)  
13 of such Code if (i) such plan is subject to title I of  
14 the Employee Retirement Income Security Act of  
15 1974 (29 U.S.C. 1001 et seq.), (ii) any employer  
16 making such plan available agrees to serve as a fidu-  
17 ciary for the plan with respect to the selection of the  
18 plan’s investments among which participants can  
19 choose, or (iii) such plan is a governmental plan (as  
20 defined in section 414(d) of such Code); or (E)”;

21 (2) by striking “(C), or (D)” and inserting  
22 “(C), (D), or (E)”; and

23 (3) by striking “(iii) which is a plan funded”  
24 and inserting “(iii) in the case of a plan not de-

1       scribed in subparagraph (D), which is a plan fund-  
2       ed”.

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

7           (1) by striking “or (iv)” and inserting “(iv) a  
8       plan which meets the requirements of section 403(b)  
9       of such Code if (I) such plan is subject to title I of  
10      the Employee Retirement Income Security Act of  
11      1974 (29 U.S.C. 1001 et seq.), (II) any employer  
12      making such plan available agrees to serve as a fidu-  
13      ciary for the plan with respect to the selection of the  
14      plan’s investments among which participants can  
15      choose, or (III) such plan is a governmental plan (as  
16      defined in section 414(d) of such Code), or (v)”;

17           (2) by striking “(ii), or (iii)” and inserting  
18      “(ii), (iii), or (iv)”;

19           (3) by striking “(II) is a plan funded” and in-  
20      serting “(II) in the case of a plan not described in  
21      clause (iv), is a plan funded”.