

# Union Calendar No. 251

118TH CONGRESS  
1ST SESSION

# H. R. 3063

[Report No. 118-311]

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2023

Mr. LUCAS (for himself, Mr. GOTTHEIMER, Mr. FOSTER, and Mr. BARR) introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 12, 2023

Additional sponsors: Mr. NUNN of Iowa, Mr. PANETTA, Mr. FLOOD, Ms. SEWELL, Mr. NICKEL, Mr. LAWLER, Mr. EVANS, Mr. PAPPAS, Mr. TRONE, Mr. THOMPSON of Pennsylvania, Mr. MEUSER, Mr. MORELLE, and Ms. PETERSEN

DECEMBER 12, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 2, 2023]

# **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 for*  
5 *Charities and Educational Institutions Act of 2023”.*

6 **SEC. 2. ENHANCEMENT OF 403(b) PLANS.**

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

11            *“(11) Any—*

12                    *“(A) employee’s stock bonus, pension, or*  
13 *profit-sharing trust which meets the require-*  
14 *ments for qualification under section 401 of the*  
15 *Internal Revenue Code of 1986;*

16                    *“(B) custodial account meeting the require-*  
17 *ments of section 403(b)(7) of such Code;*

18                    *“(C) governmental plan described in section*  
19 *3(a)(2)(C) of the Securities Act of 1933;*

20                    *“(D) collective trust fund maintained by a*  
21 *bank consisting solely of assets of one or more—*

22                            *“(i) trusts described in subparagraph*  
23 *(A);*

24                            *“(ii) government plans described in*  
25 *subparagraph (C);*

1           “(iii) church plans, companies, or ac-  
2 counts that are excluded from the definition  
3 of an investment company under paragraph  
4 (14) of this subsection; or

5           “(iv) plans which meet the require-  
6 ments of section 403(b) of the Internal Rev-  
7 enue Code of 1986—

8           “(I) if—

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

13           “(bb) any employer making  
14 such plan available agrees to serve  
15 as a fiduciary for the plan with  
16 respect to the selection of the  
17 plan’s investments among which  
18 participants can choose; or

19           “(cc) such plan is a govern-  
20 mental plan (as defined in section  
21 414(d) of such Code); and

22           “(II) if the employer, a fiduciary  
23 of the plan, or another person acting  
24 on behalf of the employer reviews and  
25 approves each investment described

1                   under subclause (I)(bb) prior to the in-  
2                   vestment being offered to participants  
3                   in the plan; or

4                   “(E) separate account the assets of which  
5                   are derived solely from—

6                   “(i) contributions under pension or  
7                   profit-sharing plans which meet the require-  
8                   ments of section 401 of the Internal Revenue  
9                   Code of 1986 or the requirements for deduc-  
10                  tion of the employer’s contribution under  
11                  section 404(a)(2) of such Code;

12                  “(ii) contributions under governmental  
13                  plans in connection with which interests,  
14                  participations, or securities are exempted  
15                  from the registration provisions of section 5  
16                  of the Securities Act of 1933 by section  
17                  3(a)(2)(C) of such Act;

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

21                  “(iv) contributions to a plan described  
22                  in subparagraph (D)(iv).”.

23                  (b) AMENDMENTS TO THE SECURITIES ACT OF  
24                  1933.—Section 3(a)(2) of the Securities Act of 1933 (15  
25                  U.S.C. 77c(a)(2)) is amended—

1           (1) *by striking “or (D)” and inserting “(D) a*  
2 *plan which meets the requirements of section 403(b)*  
3 *of such Code (i) if (I) such plan is subject to title I*  
4 *of the Employee Retirement Income Security Act of*  
5 *1974 (29 U.S.C. 1001 et seq.), (II) any employer*  
6 *making such plan available agrees to serve as a fidu-*  
7 *ciary for the plan with respect to the selection of the*  
8 *plan’s investments among which participants can*  
9 *choose, or (III) such plan is a governmental plan (as*  
10 *defined in section 414(d) of such Code), and (ii) if the*  
11 *employer, a fiduciary of the plan, or another person*  
12 *acting on behalf of the employer reviews and approves*  
13 *each investment described under clause (i)(II) prior*  
14 *to the investment being offered to participants in the*  
15 *plan, or (E)”;*

16           (2) *by striking “(C), or (D)” and inserting “(C),*  
17 *(D), or (E)”;* and

18           (3) *by striking “(iii) which is a plan funded”*  
19 *and inserting “(iii) in the case of a plan not de-*  
20 *scribed in subparagraph (D), which is a plan fund-*  
21 *ed”.*

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

1           (1) *by striking “or (iv)” and inserting “(iv) a*  
2 *plan which meets the requirements of section 403(b)*  
3 *of such Code (I) if (aa) such plan is subject to title*  
4 *I of the Employee Retirement Income Security Act of*  
5 *1974 (29 U.S.C. 1001 et seq.), (bb) any employer*  
6 *making such plan available agrees to serve as a fidu-*  
7 *ciary for the plan with respect to the selection of the*  
8 *plan’s investments among which participants can*  
9 *choose, or (cc) such plan is a governmental plan (as*  
10 *defined in section 414(d) of such Code), and (II) if*  
11 *the employer, a fiduciary of the plan, or another per-*  
12 *son acting on behalf of the employer reviews and ap-*  
13 *proves each investment described under subclause*  
14 *(I)(bb) prior to the investment being offered to par-*  
15 *ticipants in the plan, or (v)”;*

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

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

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