

118TH CONGRESS  
1ST SESSION

# H. R. 3063

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

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

13 “(i) trusts described in subparagraph  
14 (A);

15 “(ii) government plans described in  
16 subparagraph (C);

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

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

24 “(I) such plan is subject to title  
25 I of the Employee Retirement Income

1 Security Act of 1974 (29 U.S.C. 1001  
2 et seq.);

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

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

12 “(E) separate account the assets of which  
13 are derived solely from—

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

20 “(ii) contributions under govern-  
21 mental plans in connection with which in-  
22 terests, participations, or securities are ex-  
23 empted from the registration provisions of  
24 section 5 of the Securities Act of 1933 by  
25 section 3(a)(2)(C) of such Act;

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

4                   “(iv) contributions to a plan described  
5                   in subparagraph (D)(iv).”.

6           (b) AMENDMENTS TO THE SECURITIES ACT OF  
7 1933.—Section 3(a)(2) of the Securities Act of 1933 (15  
8 U.S.C. 77c(a)(2)) is amended—

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

19                  (2) by striking “(C), or (D)” and inserting  
20                  “(C), (D), or (E)”; and

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

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

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

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

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”.

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