

118TH CONGRESS
1ST SESSION

S. 2751

To amend the Securities Exchange Act of 1934 to require issuers to disclose to the Securities and Exchange Commission information regarding workforce management policies, practices, and performance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2023

Mr. WARNER (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Securities Exchange Act of 1934 to require issuers to disclose to the Securities and Exchange Commission information regarding workforce management policies, practices, and performance, 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 “Workforce Investment
5 Disclosure Act of 2023”.

1 **SEC. 2. DISCLOSURES RELATING TO WORKFORCE MANAGE-**
2 **MENT.**

3 Section 13 of the Securities Exchange Act of 1934
4 (15 U.S.C. 78m) is amended by adding at the end the
5 following:

6 “(t) DISCLOSURES RELATING TO WORKFORCE MAN-
7 AGEMENT.—

8 “(1) DEFINITION.—In this subsection, the term
9 ‘contingent worker’ includes an individual per-
10 forming work on a temporary basis or as an inde-
11 pendent contractor.

12 “(2) REGULATIONS.—Not later than 2 years
13 after the date of enactment of this subsection, the
14 Commission, in consultation with the Secretary of
15 Labor, the Secretary of Commerce, the Secretary of
16 the Treasury, and the Attorney General, shall pro-
17 mulgate regulations that require each issuer re-
18 quired to file an annual report under subsection (a)
19 or section 15(d) to disclose in that report informa-
20 tion regarding workforce management policies, prac-
21 tices, and performance with respect to the issuer.

22 “(3) RULES.—Consistent with the requirement
23 under paragraph (4), each annual report filed with
24 the Commission in accordance with the regulations
25 promulgated under paragraph (2) shall include dis-

1 closure of the following with respect to the issuer fil-
2 ing the report for the year covered by the report:

3 “(A) Workforce demographic information,
4 including—

5 “(i) the number of full-time employ-
6 ees, the number of part-time employees,
7 and the number of contingent workers (in-
8 cluding temporary and contract workers)
9 with respect to the issuer, which shall in-
10 clude demographic information with re-
11 spect to those categories of individuals, in-
12 cluding information regarding race, eth-
13 nicity, and gender;

14 “(ii) any policies or practices of the
15 issuer relating to subcontracting, outsourc-
16 ing, and insourcing individuals to perform
17 work for the issuer, which shall include de-
18 mographic information with respect to
19 those individuals, including information re-
20 garding race, ethnicity, and gender; and

21 “(iii) whether the percentage of con-
22 tingent workers with respect to the issuer
23 has changed, including temporary and con-
24 tract workers, as compared with the pre-

1 vious annual report filed by the issuer
2 under this subsection.

3 “(B) Workforce stability information, in-
4 cluding information about the voluntary turn-
5 over or retention rate, the involuntary turnover
6 rate, the internal hiring rate, and the internal
7 promotion rate, and the horizontal job change
8 rate by quintile and demographic information.

9 “(C) Workforce composition, including—

10 “(i) data on diversity (including ra-
11 cial, ethnic, and gender composition) for
12 senior executives and other individuals in
13 the workforce; and

14 “(ii) any policies, audits, and pro-
15 gramming expenditures relating to diver-
16 sity.

17 “(D) Workforce skills and capabilities, in-
18 cluding—

19 “(i) information about training and
20 cross-training of employees and contingent
21 workers by quintile and demographic infor-
22 mation, distinguishing between compliance
23 training, career development training, job
24 performance or technical training, and

1 training tied to recognized postsecondary
2 credentials;

3 “(ii) average number of hours of
4 training for each employee and contingent
5 worker;

6 “(iii) total spending on training for all
7 employees and contingent workers;

8 “(iv) average spending per employee
9 or contingent worker;

10 “(v) training utilization rates; and

11 “(vi) whether completion of training
12 opportunities translates into value added
13 benefit for workers, as determined by wage
14 increases or internal promotions.

15 “(E) Workforce health, safety, and well-
16 being, including information regarding—

17 “(i) the frequency, severity, and lost
18 time due to injuries, physical and mental
19 illness, and fatalities;

20 “(ii) the scope, frequency, and total
21 expenditure on workplace health, safety,
22 and well-being programs;

23 “(iii) the total dollar value of assessed
24 fines under the Occupational Safety and

1 Health Act of 1970 (29 U.S.C. 651 et
2 seq.);

3 “(iv) the total number of actions
4 brought under section 13 of the Occupa-
5 tional Safety and Health Act of 1970 (29
6 U.S.C. 662) to prevent imminent dangers;

7 “(v) the total number of actions
8 brought against the issuer under section
9 11(c) of the Occupational Safety and
10 Health Act of 1970 (29 U.S.C. 660(c));

11 “(vi) any findings of workplace har-
12 assment or workplace discrimination dur-
13 ing the 5 fiscal year period of the issuer
14 preceding the fiscal year in which the re-
15 port is filed; and

16 “(vii) communication channels and
17 grievance mechanisms in place for employ-
18 ees and contingent workers.

19 “(F) Workforce compensation and incen-
20 tives, including information regarding—

21 “(i) total workforce costs, including
22 salaries and wages, health benefits, other
23 ancillary benefit costs, and pension costs;

24 “(ii) workforce benefits, including
25 paid leave, health care, child care, and re-

1 tirement, including information regarding
2 benefits that are provided—

3 “(I) to full-time employees and
4 not to part-time employees; or

5 “(II) to employees and not to
6 contingent workers;

7 “(iii) total contributions made to un-
8 employment insurance by the issuer, how
9 many employees to whom those contribu-
10 tions apply, and the total amount paid in
11 unemployment compensation to individuals
12 who were laid off by the issuer;

13 “(iv) policies and practices regarding
14 how performance, productivity, equity, and
15 sustainability are considered when setting
16 pay and making promotion decisions; and

17 “(v) policies and practices relating to
18 any incentives and bonuses provided to em-
19 ployees and any policies or practices de-
20 signed to counter any risks created by such
21 incentives and bonuses.

22 “(G) Workforce recruiting and needs, in-
23 cluding—

24 “(i) the number of new jobs created,
25 seeking to be filled, and filled,

1 disaggregated based on classification sta-
2 tus;

3 “(ii) the share of new jobs that re-
4 quire a bachelor’s degree or higher;

5 “(iii) information regarding the qual-
6 ity of hire for jobs described in clause (i);
7 and

8 “(iv) the retention rate for individuals
9 hired to fill the jobs described in clause (i).

10 “(H) Workforce engagement and produc-
11 tivity, including information regarding policies
12 and practices of the issuer relating to—

13 “(i) engagement, productivity, and
14 mental well-being of employees and contin-
15 gent workers, as determined in consulta-
16 tion with the Department of Labor; and

17 “(ii) freedom of association and work-
18 life balance initiatives, including flexibility
19 and the ability of the workforce to work re-
20 motely, as determined in consultation with
21 the Department of Labor.

22 “(4) DISAGGREGATION OF INFORMATION.—To
23 the maximum extent feasible, the information de-
24 scribed in paragraph (3) shall be disaggregated by—

1 “(A) the workforce composition described
2 in subparagraph (C) of that paragraph;

3 “(B) wage quintiles of the employees of the
4 issuer for the year covered by the applicable an-
5 nual report; and

6 “(C) the employment status of individuals
7 performing services for the issuer, including
8 whether those individuals are full-time employ-
9 ees, part-time employees, or contingent workers.

10 “(5) TREATMENT OF EMERGING GROWTH COM-
11 PANIES.—The Commission may exempt emerging
12 growth companies from any disclosure required
13 under subparagraph (D), (E), (F), (G), or (H) of
14 paragraph (3) if the Commission determines that
15 such an exemption is necessary or appropriate in the
16 public interest.

17 “(6) FALSE OR MISLEADING STATEMENTS.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), it shall be unlawful for any
20 person, in any report or document filed under
21 this subsection, to make or cause to be made
22 any untrue statement of a material fact or omit
23 to state a material fact required to be stated in
24 the report or document or necessary to make
25 the statement made, in the light of the cir-

1 cumstances under which it is made, not mis-
2 leading.

3 “(B) EXCEPTION.—A person shall not be
4 liable under subparagraph (A) if the person
5 shows that the person had, after reasonable in-
6 vestigation, reasonable ground to believe, and
7 did believe, at the time the applicable statement
8 was made, that the statement was true and that
9 there was no omission to state a material fact
10 necessary to make the statement made, in the
11 light of the circumstances under which it is
12 made, not misleading.

13 “(C) NO PRIVATE RIGHT OF ACTION.—
14 Nothing in this paragraph may be construed as
15 creating a private right of action.

16 “(7) EXEMPTION.—This subsection shall not
17 apply to an investment company registered under
18 section 8 of the Investment Company Act of 1940
19 (15 U.S.C. 80a-8).”.

20 **SEC. 3. BACKSTOP.**

21 (a) DEFINITIONS.—In this section—

22 (1) the term “Commission” means the Securi-
23 ties and Exchange Commission;

24 (2) the term “covered issuer” means an issuer
25 that is required to file an annual report under sec-

1 tion 13(a) or section 15(d) of the Securities Ex-
2 change Act of 1934 (15 U.S.C. 78m(a), 78o(d)); and

3 (3) the term “issuer” has the meaning given
4 the term in section 3(a) of the Securities Exchange
5 Act of 1934 (15 U.S.C. 78c(a)).

6 (b) COMPLIANCE.—If, as of the date that is 2 years
7 after the date of enactment of this Act, the Commission
8 has not promulgated the regulations required under sub-
9 section (t) of section 13 of the Securities Exchange Act
10 of 1934 (15 U.S.C. 78m), as added by section 2 of this
11 Act, a covered issuer, during the period beginning on that
12 date and ending on the date on which the Commission pro-
13 mulgates those regulations, shall be deemed to be in com-
14 pliance with such subsection (t) if disclosures set forth in
15 the annual report of the covered issuer satisfy the public
16 disclosure standards of the International Organization for
17 Standardization’s ISO 30414, or any successor standards
18 for external workforce reporting, as supplemented or ad-
19 justed by rules, guidance, or other comments from the
20 Commission.

21 **SEC. 4. SEC STUDY.**

22 (a) DEFINITIONS.—In this section, the terms “Com-
23 mission” and “issuer” have the meanings given those
24 terms in section 3(a).

1 (b) STUDY.—The Commission shall conduct a study
2 about the value to investors of—

3 (1) information about the human rights com-
4 mitments of issuers required to file annual reports
5 under section 13(a) of the Securities Exchange Act
6 of 1934 (15 U.S.C. 78m(a)), including information
7 about any principles used to evaluate risk, constitu-
8 ency consultation processes, and supplier due dili-
9 gence; and

10 (2) with respect to issuers required to file an-
11 nual reports under section 13(a) of the Securities
12 Exchange Act of 1934 (15 U.S.C. 78m(a)), informa-
13 tion about—

14 (A) violations of the Fair Labor Standards
15 Act of 1938 (29 U.S.C. 201 et seq.) by those
16 issuers;

17 (B) violations of worker misclassification
18 by those issuers;

19 (C) surveys regarding employee satisfac-
20 tion, well-being, and engagement;

21 (D) the number and overall percentage of
22 quality jobs, as determined by compensation
23 above median wage and comprehensive em-
24 ployer-provided benefits; and

1 (E) information about workforce invest-
2 ment trends, as determined by at least a 3-year
3 time period.

4 (c) REPORT.—Not later than 1 year after the date
5 of enactment of this Act, the Commission shall submit to
6 Congress a report that contains the results of the study
7 required to be conducted under subsection (b), with rec-
8 ommendations for additional disclosure regulations based
9 on the findings, and any actions the Commission plans to
10 take to enhance disclosures based on the findings.

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