118TH CONGRESS
1ST SESSION

S. 2517

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to allow for periodic automatic reenrollment under qualified automatic contribution arrangements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2023

Mr. KAINE (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to allow for periodic automatic reenrollment under qualified automatic contribution arrangements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Auto Reenroll Act of 2023".

SEC. 2. AUTOMATIC REENROLLMENT UNDER QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENTS AND ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

(1) IN GENERAL.—Section 401(k)(13)(C) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(v) PERIODIC AUTOMATIC DEFERRAL PERMITTED.—A qualified automatic contribution arrangement shall not fail to be treated as meeting the requirements of this subparagraph solely by reason of the fact that, under the arrangement—

"(I) an election by an employee under clause (ii)(I) terminates after not more than 3 years (but not less than 1 year), and

"(II) such employee is treated as having made an election under clause (i) after such termination unless such employee makes a new affirmative election under clause (ii).

A termination described in subclause (I) may be made at one time for a plan year for all employees who have made an election described in such subclause.''.

(2) COORDINATION WITH RULE FOR CURRENT EMPLOYEES.—

(A) IN GENERAL.—Clause (iv) of section 401(k)(13)(C) of such Code is amended by striking ''either to participate in the arrangement or not to participate in the arrangement'' and inserting ''to participate in the arrangement''.

(B) SPECIAL RULE FOR PREVIOUSLY DISREGARDED EMPLOYEES.—

(i) IN GENERAL.—For purposes of applying section 401(k)(13)(C)(v) of the Internal Revenue Code of 1986 (as added by paragraph (1)), a previously disregarded employee may be treated as an employee who has made an election under section 401(k)(13)(C)(ii)(I) of such Code.

(ii) PREVIOUSLY DISREGARDED EMPLOYEE.—For purposes of this subparagraph, the term ''previously disregarded employee'' means any employee who was not taken into account under section 401(k)(13)(C)(i) of the Internal Revenue

Code of 1986 by reason of an election described in section 401(k)(13)(C)(iv)(II) of such Code (as in effect for plan years beginning on or before the date of the enactment of this Act) to not participate in an arrangement described in section 401(k)(13)(C)(iv)(I) of such Code.

(b) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Section 414(w)(3) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins of such clauses 2 ems to the right;

(2) by striking "ARRANGEMENT.—For purposes of" and inserting the following: "ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of"; and

(3) by adding at the end the following new subparagraph:

"(B) PERIODIC AUTOMATIC DEFERRAL PERMITTED.—An arrangement shall not fail to be treated as an eligible automatic contribution arrangement under this subsection solely by reason of the fact that, under the arrangement—

"(i) an election by an employee under subparagraph (A)(ii) not to have contributions made terminates after not more than 3 years (but not less than 1 year), and

"(ii) such employee is treated as having made an election under subparagraph (A)(ii) to make contributions at the uniform percentage level described in such subparagraph after such termination unless such employee makes a new election not to so make such contributions.

A termination described in clause (i) may be made at one time for a plan year for all employees who have made an election described in such clause.".

(c) CONFORMING AMENDMENT.—Section 514(e)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(e)(2)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "(2) For purposes of" and inserting "(2)(A) For purposes of"; and

(3) by adding at the end the following:

"(B) An arrangement shall not fail to be treated as an automatic contribution arrangement under this subsection solely by reason of the fact that under the arrangement—

"(i) an election by an employee under subparagraph (A)(ii) not to have contributions made terminates after not more than 3 years (but not less than 1 year), and

"(ii) such employee is treated as having made an election under subparagraph (A)(ii) to make contributions at the uniform percentage level described in such subparagraph after such termination unless such employee makes a new election not to so make such contributions.

A termination described in clause (i) may be made at one time for a plan year for all employees who have made an election described in such clause, regardless of individual employee dates of enrollment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

(e) NO INFERENCE.—The amendments made by this section shall not be construed to create any inference with respect to—

(1) the application of section 401(k)(13)(C) of the Internal Revenue Code of 1986, section

414(w)(3) of such Code, or section 514(e)(2) of the Employee Retirement Income Security Act of 1974 to plan years beginning before the date of the enactment of this Act, or

(2) the application of section 401(k)(13)(C)(v) of the Internal Revenue Code of 1986 (as added by subsection (a)), section 414(w)(3)(B) of such Code (as amended by subsection (b)), or section 514(e)(2)(B) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (c)) to arrangements terminating elections not to have contributions made after more than 3 years.

○