

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.

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 “Auto Reenroll Act of
5 2023”.

1 **SEC. 2. AUTOMATIC REENROLLMENT UNDER QUALIFIED**
 2 **AUTOMATIC CONTRIBUTION ARRANGEMENTS**
 3 **AND ELIGIBLE AUTOMATIC CONTRIBUTION**
 4 **ARRANGEMENTS.**

5 (a) QUALIFIED AUTOMATIC CONTRIBUTION AR-
 6 RANGEMENTS.—

7 (1) IN GENERAL.—Section 401(k)(13)(C) of the
 8 Internal Revenue Code of 1986 is amended by add-
 9 ing at the end the following new clause:

10 “(v) PERIODIC AUTOMATIC DEFERRAL
 11 PERMITTED.—A qualified automatic con-
 12 tribution arrangement shall not fail to be
 13 treated as meeting the requirements of this
 14 subparagraph solely by reason of the fact
 15 that, under the arrangement—

16 “(I) an election by an employee
 17 under clause (ii)(I) terminates after
 18 not more than 3 years (but not less
 19 than 1 year), and

20 “(II) such employee is treated as
 21 having made an election under clause
 22 (i) after such termination unless such
 23 employee makes a new affirmative
 24 election under clause (ii).

25 A termination described in subclause (I)
 26 may be made at one time for a plan year

1 for all employees who have made an elec-
 2 tion described in such subclause.”.

3 (2) COORDINATION WITH RULE FOR CURRENT
 4 EMPLOYEES.—

5 (A) IN GENERAL.—Clause (iv) of section
 6 401(k)(13)(C) of such Code is amended by
 7 striking “either to participate in the arrange-
 8 ment or not to participate in the arrangement”
 9 and inserting “to participate in the arrange-
 10 ment”.

11 (B) SPECIAL RULE FOR PREVIOUSLY DIS-
 12 REGARDED EMPLOYEES.—

13 (i) IN GENERAL.—For purposes of ap-
 14 plying section 401(k)(13)(C)(v) of the In-
 15 ternal Revenue Code of 1986 (as added by
 16 paragraph (1)), a previously disregarded
 17 employee may be treated as an employee
 18 who has made an election under section
 19 401(k)(13)(C)(ii)(I) of such Code.

20 (ii) PREVIOUSLY DISREGARDED EM-
 21 PLOYEE.—For purposes of this subpara-
 22 graph, the term “previously disregarded
 23 employee” means any employee who was
 24 not taken into account under section
 25 401(k)(13)(C)(i) of the Internal Revenue

1 Code of 1986 by reason of an election de-
 2 scribed in section 401(k)(13)(C)(iv)(II) of
 3 such Code (as in effect for plan years be-
 4 ginning on or before the date of the enact-
 5 ment of this Act) to not participate in an
 6 arrangement described in section
 7 401(k)(13)(C)(iv)(I) of such Code.

8 (b) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGE-
 9 MENTS.—Section 414(w)(3) of the Internal Revenue Code
 10 of 1986 is amended—

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

15 (2) by striking “ARRANGEMENT.—For purposes
 16 of” and inserting the following: “ARRANGEMENT.—

17 “(A) IN GENERAL.—For purposes of”; and

18 (3) by adding at the end the following new sub-
 19 paragraph:

20 “(B) PERIODIC AUTOMATIC DEFERRAL
 21 PERMITTED.—An arrangement shall not fail to
 22 be treated as an eligible automatic contribution
 23 arrangement under this subsection solely by
 24 reason of the fact that, under the arrange-
 25 ment—

1 “(i) an election by an employee under
 2 subparagraph (A)(ii) not to have contribu-
 3 tions made terminates after not more than
 4 3 years (but not less than 1 year), and

5 “(ii) such employee is treated as hav-
 6 ing made an election under subparagraph
 7 (A)(ii) to make contributions at the uni-
 8 form percentage level described in such
 9 subparagraph after such termination un-
 10 less such employee makes a new election
 11 not to so make such contributions.

12 A termination described in clause (i) may be
 13 made at one time for a plan year for all employ-
 14 ees who have made an election described in
 15 such clause.”.

16 (c) CONFORMING AMENDMENT.—Section 514(e)(2)
 17 of the Employee Retirement Income Security Act of 1974
 18 (29 U.S.C. 1144(e)(2)) is amended—

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

21 (2) by striking “(2) For purposes of” and in-
 22 serting “(2)(A) For purposes of”; and

23 (3) by adding at the end the following:

24 “(B) An arrangement shall not fail to be treated as
 25 an automatic contribution arrangement under this sub-

1 section solely by reason of the fact that under the arrange-
 2 ment—

3 “(i) an election by an employee under sub-
 4 paragraph (A)(ii) not to have contributions
 5 made terminates after not more than 3 years
 6 (but not less than 1 year), and

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

13 A termination described in clause (i) may be made
 14 at one time for a plan year for all employees who
 15 have made an election described in such clause, re-
 16 gardless of individual employee dates of enroll-
 17 ment.”.

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

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

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

1 414(w)(3) of such Code, or section 514(e)(2) of the
2 Employee Retirement Income Security Act of 1974
3 to plan years beginning before the date of the enact-
4 ment of this Act, or

5 (2) the application of section 401(k)(13)(C)(v)
6 of the Internal Revenue Code of 1986 (as added by
7 subsection (a)), section 414(w)(3)(B) of such Code
8 (as amended by subsection (b)), or section
9 514(e)(2)(B) of the Employee Retirement Income
10 Security Act of 1974 (as amended by subsection (c))
11 to arrangements terminating elections not to have
12 contributions made after more than 3 years.

○