

114TH CONGRESS
1ST SESSION

S. 245

To amend the Internal Revenue Code of 1986 to expand personal saving and retirement savings coverage by enabling employees not covered by qualifying retirement plans to save for retirement through automatic IRA arrangements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2015

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand personal saving and retirement savings coverage by enabling employees not covered by qualifying retirement plans to save for retirement through automatic IRA 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; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Automatic IRA Act of 2015”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. EMPLOYEES NOT COVERED BY QUALIFYING RE-**
 6 **TIREMENT PLANS OR ARRANGEMENTS ENTI-**
 7 **TLED TO PARTICIPATE IN AUTOMATIC IRA**
 8 **ARRANGEMENTS.**

9 (a) IN GENERAL.—Subpart A of part I of subchapter
 10 D of chapter 1 (relating to pension, profit-sharing, stock
 11 bonus plans, etc.) is amended by inserting after section
 12 408A the following new section:

13 **“SEC. 408B. RIGHT TO AUTOMATIC IRA ARRANGEMENTS AT**
 14 **WORK.**

15 “(a) REQUIREMENT TO PROVIDE AUTOMATIC IRA
 16 ARRANGEMENT.—Each covered employer shall make
 17 available to each qualifying employee of the employer for
 18 the calendar year an automatic IRA arrangement.

19 “(b) COVERED EMPLOYER.—For purposes of this
 20 section—

21 “(1) IN GENERAL.—Except as otherwise pro-
 22 vided in this subsection or subsection (c)(2), the
 23 term ‘covered employer’ means, with respect to any
 24 year, an employer which does not maintain a quali-

1 fying plan or arrangement described in section
2 219(g)(5) for the calendar year.

3 “(2) EXCLUDED PLANS.—A qualifying plan or
4 arrangement shall not be taken into account for pur-
5 poses of paragraph (1) if—

6 “(A) the plan or arrangement is frozen as
7 of the first day of the preceding calendar year,
8 or

9 “(B) in the case of a plan or arrangement
10 under which the only contributions are discre-
11 tionary on the part of the employer or other
12 plan sponsor, no employer contribution has
13 been made to the plan or arrangement for the
14 2-plan-year period ending with the last plan
15 year ending in the second preceding calendar
16 year and it is not reasonable to assume that an
17 employer contribution will be made for the last
18 plan year ending in the preceding calendar
19 year.

20 “(3) EXCEPTION FOR CERTAIN SMALL AND
21 NEW EMPLOYERS.—

22 “(A) IN GENERAL.—The term ‘covered em-
23 ployer’ does not include an employer for a cal-
24 endar year if the employer either—

1 “(i) did not employ more than 10 em-
2 ployees who received at least \$5,000 of
3 compensation (as defined in section
4 3401(a)) from the employer for the pre-
5 ceding calendar year,

6 “(ii) did not normally employ more
7 than 10 employees on a typical business
8 day of the preceding calendar year, or

9 “(iii) was not in existence at all times
10 during the calendar year and the preceding
11 calendar year.

12 “(B) OPERATING RULES.—In determining
13 the number of employees for purposes of sub-
14 paragraph (A)—

15 “(i) rules consistent with any rules
16 applicable in determining the number of
17 employees for purposes of section
18 408(p)(2)(C) and section 4980B(d) shall
19 apply,

20 “(ii) all members of the same family
21 (within the meaning of section 318(a)(1))
22 shall be treated as 1 individual, and

23 “(iii) any reference to an employer
24 shall include a reference to any predecessor
25 employer.

1 “(4) EXCEPTION FOR GOVERNMENTS AND
2 CHURCHES.—The term ‘covered employer’ does not
3 include—

4 “(A) a government or entity described in
5 section 414(d), or

6 “(B) a church or a convention or associa-
7 tion of churches which is exempt from tax
8 under section 501.

9 “(5) AGGREGATION RULE.—All persons treated
10 as a single employer under subsection (a) or (b) of
11 section 52 or subsection (m) or (o) of section 414
12 shall be treated as a single employer.

13 “(c) QUALIFYING EMPLOYEE.—For purposes of this
14 section—

15 “(1) IN GENERAL.—The term ‘qualifying em-
16 ployee’ means any employee of the employer who is
17 not an excluded employee.

18 “(2) PLAN SPONSOR’S EMPLOYEES.—If—

19 “(A) an employer maintains one or more
20 qualifying plans or arrangements described in
21 section 219(g)(5), and

22 “(B) the employees of a subsidiary, divi-
23 sion, or other major business unit are generally
24 not eligible to participate in any such qualifying
25 plan or arrangement,

1 then, for purposes of this section, the employer shall
 2 be treated as a covered employer with respect to
 3 such employees (other than excluded employees),
 4 and such employees (other than excluded employees)
 5 shall be treated as qualifying employees, but only if
 6 there are 50 or more ineligible employees of such
 7 subsidiary, division or other major business unit con-
 8 stituting at least 10 percent of the employees of the
 9 employer (other than excludable employees).

10 “(3) EXCLUDED EMPLOYEES.—

11 “(A) IN GENERAL.—The term ‘excluded
 12 employee’ means an employee of the employer
 13 who is an excludable employee and who is in a
 14 class or category that the employer excludes
 15 from treatment as qualifying employees.

16 “(B) EXCLUDABLE EMPLOYEE.—The term
 17 ‘excludable employee’ means—

18 “(i) any employee described in section
 19 410(b)(3),

20 “(ii) any employee who has not at-
 21 tained the age of 18 before the beginning
 22 of the calendar year,

23 “(iii) any employee who has not com-
 24 pleted at least 3 months of service with the
 25 employer,

1 “(iv) in the case of an employer that
2 maintains a qualifying plan or arrange-
3 ment which excludes employees who have
4 not satisfied the minimum age and service
5 requirements for participation in the plan,
6 any employee who has not satisfied such
7 requirements,

8 “(v) in the case of an employer that
9 maintains a section 403(b) annuity con-
10 tract (including a custodial account or re-
11 tirement income account), any employee
12 who is permitted to be excluded from any
13 salary reduction arrangement under the
14 contract pursuant to section 403(b)(12),

15 “(vi) in the case of an employer that
16 maintains an arrangement described in
17 section 408(p), any employee who is not
18 required to be eligible to participate in the
19 arrangement under section 408(p)(4), and

20 “(vii) in the case of an employer that
21 maintains a simplified employee pension
22 described in section 408(k), any employee
23 who is permitted to be excluded from par-
24 ticipation under section 408(k)(2).

1 “(4) GUIDANCE.—The Secretary shall issue
2 regulations or other guidance to carry out this sub-
3 section, including—

4 “(A) guidelines for determining the classes
5 or categories of employees to be covered by an
6 automatic IRA arrangement,

7 “(B) if an employer excludes employees
8 from the automatic IRA arrangement, guide-
9 lines providing that the employer shall specify
10 the classification or categories of employees who
11 are so excluded, and

12 “(C) rules to prevent avoidance of the re-
13 quirements of this section.

14 “(d) AUTOMATIC IRA ARRANGEMENT.—For pur-
15 poses of this section—

16 “(1) IN GENERAL.—The term ‘automatic IRA
17 arrangement’ means an arrangement of an employer
18 (determined without regard to whether the employer
19 is required to maintain the arrangement)—

20 “(A) which covers each qualifying employee
21 of the covered employer for the calendar year,

22 “(B) under which a qualifying employee—

23 “(i) may elect—

24 “(I) to contribute to an indi-
25 vidual retirement plan, or to purchase

1 a qualified retirement bond on behalf
2 of the employee, by having the em-
3 ployer deposit payroll deduction
4 amounts or make other periodic direct
5 deposits (including electronic pay-
6 ments) to the plan or to be invested in
7 retirement bonds (whether to the Sec-
8 retary of the Treasury or to a des-
9 ignated trustee or other agent for that
10 purpose), or

11 “(II) to have such payments paid
12 to the employee directly in cash,

13 “(ii) is treated as having made the
14 election under clause (i)(I) in the amount
15 specified in paragraph (4) until the indi-
16 vidual specifically elects not to have such
17 contributions or purchases made (or spe-
18 cifically elects to have such contributions
19 or purchases made at a different percent-
20 age or in a different amount), and

21 “(iii) may elect to modify the manner
22 in which such amounts are invested for
23 such year,

1 “(C) which meets the administrative re-
 2 quirements of paragraph (2), including the no-
 3 tice requirement of paragraph (2)(C), and

4 “(D) which does not charge unreasonable
 5 additional fees solely on the basis that the bal-
 6 ance in an automatic IRA is small.

7 “(2) ADMINISTRATIVE REQUIREMENTS.—

8 “(A) PAYMENTS.—The requirements of
 9 this paragraph are met with respect to any
 10 automatic IRA arrangement if the employer
 11 makes the payments elected or treated as elect-
 12 ed under paragraph (1)(B)—

13 “(i) on or before the last day of the
 14 month following the month in which the
 15 compensation otherwise would have been
 16 payable to the employee in cash, or

17 “(ii) before such later deadline pre-
 18 scribed by the Secretary for making such
 19 payments, but not later than the due date
 20 for the deposit of tax required to be de-
 21 ducted and withheld under chapter 24 (re-
 22 lating to collection of income tax at source
 23 on wages) for the payroll period to which
 24 such payments relate.

1 “(B) TERMINATION OF EMPLOYEE PAR-
2 TICIPATION.—Subject to a requirement for rea-
3 sonable notice, an employee may elect to termi-
4 nate participation in the arrangement at any
5 time during a calendar year, except that if an
6 employee so terminates, the arrangement may
7 provide that the employee may not elect to re-
8 sume participation until the beginning of the
9 next calendar year.

10 “(C) NOTICE OF ELECTION PERIOD.—The
11 requirements of this paragraph shall not be
12 treated as met with respect to any year unless
13 the employer notifies each employee eligible to
14 participate, within a reasonable period of time
15 before the 30th day before the beginning of
16 such year (and, for the first year the employee
17 is so eligible, the 30th day before the first day
18 such employee is so eligible), of—

19 “(i) the payments that may be elected
20 or treated as elected under paragraph
21 (1)(B),

22 “(ii) the opportunity to make the elec-
23 tion to terminate participation in the ar-
24 rangement under paragraph (2)(B),

1 “(iii) the opportunity to make the
 2 election under paragraph (1)(B)(ii) to have
 3 contributions or purchases made at a dif-
 4 ferent percentage or in a different amount,
 5 and

6 “(iv) the opportunity under paragraph
 7 (1)(B)(iii) to modify the manner in which
 8 such amounts are invested for such year.

9 “(D) EMPLOYER MAY PERMIT EMPLOYEES
 10 TO CHOOSE IRA.—Subject to subsection (f), if
 11 the employer so elects, the arrangement pro-
 12 vides that an employee may elect to have con-
 13 tributions made to any individual retirement
 14 plan specified by the employee.

15 “(E) EMPLOYER MAY PERMIT EMPLOYEES
 16 TO CHOOSE RETIREMENT BOND.—Subject to
 17 subsection (f), if the employer so elects, the ar-
 18 rangement provides that an employee may elect
 19 to have payments applied toward the purchase
 20 of retirement bonds.

21 “(3) DEFAULT INVESTMENTS.—If an employee
 22 is treated under clause (ii) of paragraph (1)(B) as
 23 having made an election to participate in an auto-
 24 matic IRA arrangement—

1 “(A) the employee shall be deemed to have
 2 made an election to make contributions and
 3 payments in the amount determined under such
 4 clause,

5 “(B) such contributions shall—

6 “(i) if the employer has made an elec-
 7 tion under subsection (f)(2), be transferred
 8 to an individual retirement plan of the des-
 9 ignated trustee or issuer but only if the
 10 contributions are invested as provided in
 11 paragraph (5), or

12 “(ii) be applied toward the purchase
 13 of a retirement bond.

14 “(4) AMOUNT OF CONTRIBUTIONS AND PAY-
 15 MENTS.—

16 “(A) IN GENERAL.—The amount specified
 17 in this paragraph is—

18 “(i) 3 percent of compensation, or

19 “(ii) such other percentage of com-
 20 pensation as is specified in regulations pre-
 21 scribed by the Secretary which is not less
 22 than 2 percent or more than 6 percent.

23 “(B) AUTHORITY TO PROVIDE FOR PERI-
 24 ODIC INCREASES.—In the case of qualifying em-
 25 ployees under an automatic IRA arrangement

for 2 or more consecutive years, the Secretary may by regulation provide for periodic (not more frequent than annual) increases in the percentage of compensation an employee is deemed to have elected under subparagraph (A). The considerations the Secretary shall take into account in issuing any regulations under this subparagraph and subparagraph (A) shall include the potential effects on lower-income employees as well as on adequacy of savings.

“(C) PERMITTED ADDITIONAL PROCEDURES TO LIMIT CONTRIBUTIONS.—An employer—

“(i) shall have no responsibility for any calendar year for determining whether, or ensuring that, the contributions with respect to any employee do not exceed the deductible amount in effect for taxable years beginning in the calendar year under section 219(b)(5) (determined without regard to subparagraph (B) thereof), and

“(ii) shall not be treated as failing to satisfy the requirements of this section or any other provision of this title merely because the employer chooses to limit the

1 contributions under this subsection on be-
 2 half of a qualifying employee for any cal-
 3 endar year in a manner reasonably de-
 4 signed to avoid exceeding such deductible
 5 amount.

6 “(5) REQUIRED INVESTMENTS.—

7 “(A) IN GENERAL.—Amounts contributed
 8 under paragraph (3)(B)(i) shall be invested
 9 only in the class of assets or funds described in
 10 subparagraph (B) unless the employer elects a
 11 class of assets or funds described in subpara-
 12 graph (C), (D), (E), or (F).

13 “(B) TARGET DATE/LIFECYCLE OPTION.—

14 The class of assets or funds described in this
 15 subparagraph is the class of assets or funds
 16 that constitutes a qualified default investment
 17 alternative under Department of Labor regula-
 18 tion section 2550.404c-5(e)(4)(i).

19 “(C) PRINCIPAL PRESERVATION.—The

20 class of assets or funds described in this sub-
 21 paragraph is the class of assets or funds that
 22 is designed to protect the principal of the indi-
 23 vidual on an ongoing basis, including passbook
 24 savings, certificates of deposit, insurance con-
 25 tracts, mutual funds, United States savings

1 bonds (which may be indexed for inflation), and
2 similar assets specified in regulations.

3 “(D) BALANCED OPTION.—The class of
4 assets or funds described in this subparagraph
5 is the class of assets or funds that constitutes
6 a qualified default investment alternative under
7 Department of Labor regulation section
8 2550.404c–5(e)(4)(ii).

9 “(E) GUARANTEED LIFETIME INCOME OP-
10 TION OR EQUIVALENT.—The class of assets or
11 funds described in this subparagraph is the
12 class of assets or funds that is designed to pro-
13 vide an employee with the right to elect to re-
14 ceive distributions as a defined level of income
15 annually (or more frequently) for at least the
16 remainder of the life of the employee or the
17 joint lives of the employee and the employee’s
18 designated beneficiary. No later than 12
19 months after the date of enactment of this Act,
20 the Secretary of Labor and the Secretary shall
21 issue guidance defining a guaranteed lifetime
22 income or equivalent.

23 “(F) OTHER.—Any other class of assets or
24 funds determined by the Secretary to be a

1 qualified investment for purposes of this sec-
2 tion.

3 “(6) COORDINATION WITH WITHHOLDING.—
4 The Secretary shall modify the withholding exemp-
5 tion certificate under section 3402(f) so that, in the
6 case of any qualifying employee covered under an
7 automatic IRA arrangement, any notice and election
8 requirements with respect to the arrangement may
9 be met through the use of an attachment to such
10 certificate or other modifications of the withholding
11 exemption procedures.

12 “(7) TREATMENT AS IRA.—A qualifying em-
13 ployee for whom an automatic IRA is established
14 under paragraph (1) may elect, at such time and in
15 such manner and form as the Secretary may pre-
16 scribe, whether to treat the individual retirement
17 plan as described, or not described, in section 408A.
18 If no such election is made, the plan shall be treated
19 as described in section 408A and shall meet the re-
20 quirements of section 408A.

21 “(8) EMPLOYER’S OPTION TO OBTAIN AFFIRMA-
22 TIVE ELECTIONS FROM EMPLOYEES INSTEAD OF
23 AUTOMATIC ENROLLMENT.—As an alternative to
24 automatic enrollment, an employer may choose to
25 comply with paragraph (1)(B)(ii) by notifying em-

1 ployees that the employer wishes to obtain from each
 2 qualifying employee an affirmative election either to
 3 contribute or not to contribute to an automatic IRA,
 4 provided that any qualifying employee who fails to
 5 make such an election is treated in the manner pro-
 6 vided under paragraph (1)(B)(ii).

7 “(e) AUTOMATIC IRA CONTRIBUTIONS AND RETIRE-
 8 MENT BOND PURCHASES TREATED LIKE OTHER CON-
 9 TRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

10 “(1) TAX TREATMENT UNAFFECTED.—The fact
 11 that a contribution to an individual retirement plan
 12 or purchase of a retirement bond is made on behalf
 13 of an employee under an automatic IRA arrange-
 14 ment instead of being made directly by the employee
 15 shall not affect the deductibility or other tax treat-
 16 ment of the contribution or of other amounts under
 17 this title.

18 “(2) PAYROLL SAVINGS CONTRIBUTIONS TAKEN
 19 INTO ACCOUNT.—Any contribution to an individual
 20 retirement plan or purchase of a retirement bond
 21 made on behalf of an employee under an automatic
 22 IRA arrangement shall be taken into account in ap-
 23 plying the limitations on contributions to individual
 24 retirement plans and the other provisions of this
 25 title applicable to individual retirement plans as if

1 the contribution or purchase had been made directly
 2 by the employee.

3 “(f) DEPOSITS TO PLANS OF A DESIGNATED TRUST-
 4 EE OR ISSUER AND FOR RETIREMENT BONDS.—

5 “(1) IN GENERAL.—An employer shall not be
 6 treated as failing to satisfy the requirements of this
 7 section or any other provision of this title merely be-
 8 cause the employer makes all contributions (or all
 9 contributions on behalf of employees who do not
 10 specify an individual retirement plan, trustee, or
 11 issuer to receive the contributions) to individual re-
 12 tirement plans specified in paragraph (2) or to the
 13 Secretary or his agent for the purchase of retirement
 14 bonds specified in paragraph (3).

15 “(2) INDIVIDUAL RETIREMENT PLANS OTHER
 16 THAN THOSE SELECTED BY EMPLOYEE.—An em-
 17 ployer may elect to have contributions for all quali-
 18 fying employees participating in an automatic IRA
 19 arrangement made to individual retirement plans of
 20 a trustee or issuer under the arrangement that has
 21 been designated by the employer. The preceding sen-
 22 tence shall not apply unless each participant is noti-
 23 fied in writing that the participant’s balance may be
 24 transferred without cost or penalty to another indi-

vidual retirement plan established by or on behalf of the participant.

“(3) RETIREMENT BONDS.—

“(A) IN GENERAL.—The Secretary shall provide that contributions deposited under subparagraph (B) shall be applied to the purchase of a retirement bond in the name of each applicable employee.

“(B) PAYROLL DEPOSIT FEATURES.—The Secretary shall establish procedures so that contributions may be applied to the purchase of retirement bonds without undue administrative or paperwork requirements on participating employers. Such procedures shall ensure that only 1 such retirement bond of each type (traditional or Roth) is issued for each TIN.

“(4) PAYROLL TAX DEPOSIT PROCEDURE.—The procedures the Secretary shall establish may include a procedure under which an employer—

“(A) may include with each deposit of tax required to be deducted and withheld under chapter 24 the aggregate amounts, for the period covered by the deposit, which qualifying employees have designated under clause (i)(I) of subsection (d)(1)(B) (or are deemed to have

designated under clause (ii) of such subsection)
 as contributions to purchase retirement bonds
 on behalf of the employees under paragraph
 (3), and

“(B) specifies, in such manner as the Sec-
 retary may prescribe, information needed to
 purchase retirement bonds on behalf of each ap-
 plicable employee for whom a contribution is to
 be made, including—

“(i) the employee’s name and TIN,
 and

“(ii) the amount of the contribution.

“(5) PURPOSES.—The purposes of the retire-
 ment bond program established under this sub-
 section and subsection (g) include—

“(A) providing new savers a convenient,
 low-cost investment option suitable for the ini-
 tial accumulation of small automatic IRA con-
 tributions,

“(B) to reflect the intent that the long-
 term investment of automatic IRA funds for
 most savers be in the private market rather
 than in retirement bonds, encouraging and as-
 sisting individuals who accumulate larger
 amounts in retirement bonds to transfer those

1 funds to individual retirement plans in the pri-
2 vate market, while

3 “(C) permitting individuals to remain in-
4 vested in retirement bonds if they choose to do
5 so.

6 “(6) REGULATIONS.—The Secretary may issue
7 such regulations as are necessary to carry out the
8 purposes of this subsection and subsection (g), in-
9 cluding—

10 “(A) establishment of procedures to com-
11 municate to individuals the importance of in-
12 vestment diversification and the transfer option
13 described in subparagraph (B),

14 “(B) simplified procedures under which
15 holders of retirement bonds may periodically
16 choose to have the bonds or their proceeds
17 transferred to available individual retirement
18 plans, and

19 “(C) means by which individuals may elect
20 (or be treated as electing) whether to have re-
21 tirement bonds or their proceeds so transferred.

22 Any such transfer shall be treated as a rollover con-
23 tribution for purposes of section 408(d)(3) (other
24 than subparagraph (B) thereof).

25 “(g) RETIREMENT BOND.—

1 “(1) RETIREMENT BOND.—The term ‘retire-
 2 ment bond’ means a bond issued under chapter 31
 3 of title 31, which by its terms, or by regulations pre-
 4 scribed by the Secretary under such chapter—

5 “(A) provides for interest to be credited at
 6 rates that take into account the expected dura-
 7 tion of the funds invested in retirement bonds
 8 and at rates determined or adjusted in a man-
 9 ner and with sufficient frequency to provide
 10 substantial protection from inflation,

11 “(B) is not transferable, and

12 “(C) is designed for investment for retire-
 13 ment under automatic IRA arrangements or
 14 other savings vehicles.

15 “(2) INDIVIDUAL RETIREMENT PLAN RULES AP-
 16 PLICABLE.—The provisions of this title applicable to
 17 an individual retirement plan (as defined in section
 18 7701(a)(37)), including provisions relating to con-
 19 tributions, holding and distributions, shall apply to
 20 a retirement bond, except as determined by the Sec-
 21 retary.

22 “(3) ANNUAL STATEMENT.—As soon as prac-
 23 ticable after the close of the calendar year, the Sec-
 24 retary shall make available an annual statement to
 25 each participant setting forth—

1 “(A) payments made by or on behalf of the
2 participant for the retirement bond,

3 “(B) amounts earned by the retirement
4 bond,

5 “(C) the value of the account as of the
6 close of such calendar year,

7 “(D) the importance of diversifying retire-
8 ment savings,

9 “(E) the benefits of a well-balanced and di-
10 versified investment portfolio,

11 “(F) a notice of the internet website of the
12 Department of Labor for sources of information
13 on individual investing and diversification,

14 “(G) the procedures for redeeming a re-
15 tirement bond and directly transferring the re-
16 deemed amount into an individual retirement
17 plan,

18 “(H) other factors affecting retirement
19 savings decisions, and

20 “(I) such other information as the Sec-
21 retary determines necessary or appropriate.

22 “(h) MODEL NOTICE.—The Secretary shall—

23 “(1) provide a model notice, written in a man-
24 ner calculated to be understandable to the average
25 worker, that is simple for employers to use—

1 “(A) to notify employees of the require-
2 ment under this section for the employer to pro-
3 vide certain employees with the opportunity to
4 participate in an automatic IRA arrangement,
5 and

6 “(B) to satisfy the requirements of sub-
7 section (d)(2)(C),

8 “(2) provide uniform forms for enrollment, in-
9 cluding automatic enrollment, in an automatic IRA
10 arrangement, and

11 “(3) establish a website or other electronic
12 means that small employers can access and use to
13 obtain information on automatic IRA arrangements
14 and to obtain required notices and forms.

15 The information referred to in paragraph (3) shall
16 be provided in a manner designed to assist employ-
17 ers and providers by facilitating the identification by
18 employers of private-sector providers of individual
19 retirement plans and associated investment options
20 that are appropriate for use in automatic IRA ar-
21 rangements.

22 “(i) CROSS REFERENCE.—For provision preempting
23 conflicting State laws, see section 2(k) of the Automatic
24 IRA Act of 2015.”.

1 (b) MANDATORY TRANSFERS.—Section
 2 401(a)(31)(B) is amended—

3 (1) by inserting “(including an automatic IRA
 4 arrangement)” after “individual retirement plan”
 5 each place it appears, and

6 (2) by adding at the end the following new sen-
 7 tence: “Any amount so transferred (and any earn-
 8 ings thereon) shall be invested in a default invest-
 9 ment described in section 408B(d)(5).”.

10 (c) PENALTY FOR FAILURE TO TIMELY REMIT CON-
 11 TRIBUTIONS TO AUTOMATIC IRA ARRANGEMENTS.—Sec-
 12 tion 4975(c) is amended by adding at the end the fol-
 13 lowing new paragraph:

14 “(7) SPECIAL RULE FOR AUTOMATIC IRA AR-
 15 RANGEMENTS.—For purposes of paragraph (1), if
 16 an employer is required under an automatic IRA ar-
 17 rangement under section 408B to deposit amounts
 18 withheld from an employee’s compensation into an
 19 automatic IRA or toward the purchase of a retire-
 20 ment bond but fails to do so within the time pre-
 21 scribed under section 408B(d)(2)(A), such amounts
 22 shall be treated as assets of the automatic IRA.”.

23 (d) COORDINATION WITH EMPLOYEE RETIREMENT
 24 INCOME SECURITY ACT OF 1974.—

25 (1) EXEMPTION.—

1 (A) IN GENERAL.—Section 3(2) of the
2 Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1002(2)) is amended—

4 (i) by inserting “or (C)” after “sub-
5 paragraph (B)” in subparagraph (A), and

6 (ii) by adding at the end the following
7 new subparagraph:

8 “(C) An automatic IRA arrangement de-
9 scribed in section 408B(d) of the Internal Rev-
10 enue Code of 1986 shall not be treated as an
11 employee pension benefit plan or pension plan
12 if, under the arrangement, contributions are to
13 be made to an automatic IRA the provider of
14 which is included in the website list established
15 under section 408B(h)(3) of such Code, are to
16 be made to an individual retirement plan des-
17 ignated by the employee, or are to be invested
18 in retirement bonds (whether to the Secretary
19 of the Treasury or to a designated trustee or
20 other agent for that purpose).”.

21 (B) CUSTOMER IDENTIFICATION PRO-
22 GRAM.—Notwithstanding the amendment made
23 by subparagraph (A), an individual retirement
24 plan established pursuant to an automatic IRA
25 arrangement described in section 408B(d) of

1 the Internal Revenue Code of 1986 shall, for
2 purposes of any customer identification pro-
3 gram established under section 5318(l) of title
4 31, United States Code, be treated as an ac-
5 count opened for the purpose of participating in
6 an employee benefit plan established under the
7 Employee Retirement Income Security Act of
8 1974.

9 (2) FIDUCIARY DUTIES.—Section 404(c)(2) of
10 such Act is amended—

11 (A) by inserting before the last sentence
12 the following: “In the case of an automatic IRA
13 under section 408B of such Code that is not ex-
14 empt under section 3(2)(C), a participant or
15 beneficiary shall, for purposes of paragraph (1),
16 be treated as exercising control over the assets
17 in the account on and after the 7th day after
18 notice has been given to an employee that such
19 automatic IRA has been established on behalf
20 of the employee.”, and

21 (B) by inserting “or with respect to an
22 automatic IRA under section 408B of such
23 Code” after “arrangement” in the last sen-
24 tence.

1 (e) NOTICE OF AVAILABILITY OF INVESTMENT
2 GUIDELINES.—

3 (1) IN GENERAL.—Section 408(i) (relating to
4 reports) is amended by adding at the end the fol-
5 lowing new sentence: “Any report furnished under
6 paragraph (2) to an individual shall include notice of
7 the Internet website of the Department of Labor for
8 sources of information on individual investing and
9 diversification.”.

10 (2) UPDATE INFORMATION.—Such information
11 shall be modified (or updated) by the Secretary of
12 Labor in consultation with the Secretary of the
13 Treasury and the Chairman of the Securities and
14 Exchange Commission to address needed changes
15 due to the creation of automatic IRAs.

16 (f) FAILURE TO PROVIDE ACCESS TO PAYROLL SAV-
17 INGS ARRANGEMENTS.—Chapter 43 (relating to qualified
18 pension, etc., plans) is amended by adding at the end the
19 following new section:

20 **“SEC. 4980J. REQUIREMENTS FOR COVERED EMPLOYERS**
21 **TO PROVIDE EMPLOYEES ACCESS TO AUTO-**
22 **MATIC IRA ARRANGEMENTS.**

23 “(a) GENERAL RULE.—There is hereby imposed a
24 tax on any failure by a covered employer (as defined in

1 section 408B) to meet the requirements of subsection (d)
 2 for a calendar year.

3 “(b) AMOUNT.—

4 “(1) IN GENERAL.—The amount of the tax im-
 5 posed by subsection (a) on any failure for any cal-
 6 endar year shall be \$100 with respect to each em-
 7 ployee to whom such failure relates.

8 “(2) TAX NOT TO APPLY WHERE FAILURE NOT
 9 DISCOVERED AND REASONABLE DILIGENCE EXER-
 10 CISED.—No tax shall be imposed by subsection (a)
 11 on any failure during any period for which it is es-
 12 tablished to the satisfaction of the Secretary that the
 13 employer subject to liability for the tax did not know
 14 that the failure existed and exercised reasonable dili-
 15 gence to meet the requirements of subsection (d).

16 “(3) TAX NOT TO APPLY TO FAILURES COR-
 17 RECTED WITHIN 90 DAYS.—No tax shall be imposed
 18 by subsection (a) on any failure if—

19 “(A) the employer subject to liability for
 20 the tax under subsection (a) exercised reason-
 21 able diligence to meet the requirements of sub-
 22 section (d), and

23 “(B) the employer provides the automatic
 24 IRA arrangement described in section 408B to
 25 each employee eligible to participate in the ar-

1 rangement by the end of the 90-day period be-
 2 ginning on the first date the employer knew, or
 3 exercising reasonable diligence would have
 4 known, that such failure existed.

5 “(4) WAIVER BY SECRETARY.—In the case of a
 6 failure which is due to reasonable cause and not to
 7 willful neglect, the Secretary may waive part or all
 8 of the tax imposed by subsection (a) to the extent
 9 that the payment of such tax would be excessive or
 10 otherwise inequitable relative to the failure involved.

11 “(c) PROCEDURES FOR NOTICE.—The Secretary may
 12 prescribe and implement procedures for obtaining con-
 13 firmation that employers are in compliance with the re-
 14 quirements of subsection (d). The Secretary, in the Sec-
 15 retary’s discretion, may prescribe that the confirmation
 16 shall be obtained on an annual or less frequent basis, and
 17 may use for this purpose the annual report or quarterly
 18 report for employment taxes, or such other means as the
 19 Secretary may deem advisable.

20 “(d) REQUIREMENT TO PROVIDE EMPLOYEE ACCESS
 21 TO AUTOMATIC IRA ARRANGEMENTS.—The requirements
 22 of this subsection are met if the employer meets the re-
 23 quirements of section 408B.”.

24 (g) WAIVER OF EARLY WITHDRAWAL PENALTY FOR
 25 CERTAIN DISTRIBUTIONS FOLLOWING INITIAL ELECTION

1 TO PARTICIPATE IN AUTOMATIC IRA ARRANGEMENT.—
 2 Section 72(t) is amended by adding at the end the fol-
 3 lowing new paragraph:

4 “(11) DISTRIBUTION FOLLOWING INITIAL
 5 ELECTION TO PARTICIPATE IN AUTOMATIC IRA AR-
 6 RANGEMENT.—Paragraph (1) shall not apply in the
 7 case of a distribution to a qualifying employee made
 8 not later than 90 days after the initial election
 9 under section 408B(d)(1)(B)(ii).”.

10 (h) BANKRUPTCY.—Section 522 of title 11, United
 11 States Code, is amended—

12 (1) in subsection (d)(12) by inserting “408B,”
 13 after “408A,” and

14 (2) in subsection (n) by inserting “, or in an
 15 automatic IRA arrangement described in section
 16 408B,”.

17 (i) AUTOMATIC IRA ADVISORY GROUP.—

18 (1) IN GENERAL.—Not later than 60 days after
 19 the date of the enactment of this Act, the Secretary
 20 of the Treasury and the Secretary of Labor shall
 21 jointly establish an Automatic IRA Advisory Group
 22 (in this subsection referred to as the “Advisory
 23 Group”). The purpose of the Advisory Group shall
 24 be to make recommendations regarding the auto-
 25 matic IRA investment options described in section

1 408B(d)(5) of the Internal Revenue Code of 1986
2 and the website described in section 408B(h)(3) of
3 such Code, including, with respect to automatic IRA
4 arrangements, the disclosure of information regard-
5 ing fees and expenses, the use of low-cost investment
6 options, the appropriate use of electronic methods to
7 provide notice and disclosure, and such other related
8 matters as may be determined by the Secretaries.

9 (2) MEMBERSHIP.—The Advisory Group shall
10 consist of not more than 15 members and shall be
11 composed of—

12 (A) such persons as the Secretaries of the
13 Treasury and Labor may consider appropriate
14 to provide expertise regarding investments for
15 retirement, including providers of individual re-
16 tirement accounts and individual retirement an-
17 nuities described in section 408 or 408A of
18 such Code, and

19 (B) one or more representatives of the De-
20 partment of Labor and of the Department of
21 the Treasury.

22 (3) COMPENSATION.—The members of the Ad-
23 visory Group shall serve without compensation.

24 (4) ADMINISTRATIVE SUPPORT.—The Depart-
25 ment of the Treasury and the Department of Labor

1 shall jointly provide appropriate administrative sup-
 2 port to the Advisory Group, including technical as-
 3 sistance. The Advisory Group may use the services
 4 and facilities of such Departments, with or without
 5 reimbursement, as jointly determined by such De-
 6 partments.

7 (5) REPORT BY ADVISORY GROUP.—Not later
 8 than 12 months after the date of the enactment of
 9 this Act, the Advisory Group shall submit to the
 10 Secretary of Labor and the Secretary of the Treas-
 11 ury a report containing its recommendations. The
 12 Secretaries may request that the Advisory Group
 13 submit subsequent reports.

14 (j) CONFORMING AMENDMENTS.—

15 (1) The table of sections for subpart A of part
 16 I of subchapter D of chapter 1 is amended by insert-
 17 ing after the item relating to section 408A the fol-
 18 lowing new item:

“Sec. 408B. Right to automatic IRA arrangements at work.”.

19 (2) The table of sections for chapter 43 is
 20 amended by adding at the end the following new
 21 item:

“Sec. 4980J. Requirements for employers to provide employees access to auto-
 matic IRA arrangements.”.

22 (k) PREEMPTION OF CONFLICTING STATE LAWS.—

23 The amendments made by this section shall supersede any

1 law of a State that would directly or indirectly prohibit
 2 or restrict the establishment or operation of an automatic
 3 IRA arrangement meeting the requirements of section
 4 408B of the Internal Revenue Code of 1986. Nothing in
 5 such amendments shall be construed to impair or super-
 6 sede any State law to the extent it provides a remedy for
 7 the failure to make payroll deposit payments under any
 8 such automatic IRA arrangement within the period re-
 9 quired under such section 408B.

10 (l) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to calendar years beginning after
 12 December 31, 2016.

13 **SEC. 3. CREDIT FOR SMALL EMPLOYERS MAINTAINING**
 14 **AUTOMATIC IRA ARRANGEMENTS.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
 16 chapter A of chapter 1 (relating to business related cred-
 17 its) is amended by adding at the end the following new
 18 section:

19 **“SEC. 45S. SMALL EMPLOYER AUTOMATIC IRA ARRANGE-**
 20 **MENT.**

21 **“(a) GENERAL RULE.—**For purposes of section 38,
 22 in the case of an eligible employer maintaining an auto-
 23 matic IRA arrangement meeting the requirements of sec-
 24 tion 408B (without regard to whether the employer is re-
 25 quired to maintain the arrangement), the small employer

1 automatic IRA arrangement credit determined under this
 2 section for any taxable year is the amount determined
 3 under subsection (b).

4 “(b) AMOUNT OF CREDIT.—

5 “(1) IN GENERAL.—The amount of the credit
 6 determined under this section for any taxable year
 7 with respect to an eligible employer shall be the sum
 8 of—

9 “(A) \$25 multiplied by the number of
 10 qualifying employees (within the meaning of
 11 section 408B(c)) for whom contributions are
 12 made under the automatic IRA arrangement re-
 13 ferred to in subsection (a) for the calendar year
 14 in which the taxable year begins, plus

15 “(B) \$500 for the taxable year which be-
 16 gins in the first calendar year, and \$250 for the
 17 taxable year which begins in the second cal-
 18 endar year, in which the eligible employer main-
 19 tains an automatic IRA arrangement meeting
 20 the requirements of section 408B.

21 “(2) LIMITATION.—No more than 10 qualifying
 22 employees may be taken into account under para-
 23 graph (1)(A) for a taxable year.

24 “(3) DURATION OF CREDIT.—The credit de-
 25 scribed in paragraph (1)(A) shall apply only for a

1 taxable year which begins in the first 6 calendar
 2 years in which the eligible employer maintains an
 3 automatic IRA arrangement meeting the require-
 4 ments of section 408B.

5 “(4) COORDINATION WITH SMALL EMPLOYER
 6 STARTUP CREDIT.—

7 “(A) No credit shall be allowed under this
 8 section to the employer for any taxable year if
 9 a credit is determined under section 45E with
 10 respect to the employer for the taxable year.

11 “(B) If the eligible employer maintains an
 12 automatic IRA arrangement meeting the re-
 13 quirements of section 408B with respect to any
 14 of the first three calendar years for which the
 15 employer could adopt such an arrangement and
 16 subsequently adopts an eligible employer plan
 17 for its employees for any of those years which
 18 it maintains for such third taxable year, then
 19 section 45E(b)(1) shall be applied with respect
 20 to the eligible employer by replacing ‘2 taxable
 21 years’ with ‘3 taxable years’.

22 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 23 section, the term ‘eligible employer’ means, with respect
 24 to any calendar year in which the taxable year begins, an
 25 employer which—

1 “(1) maintains an automatic IRA arrangement
2 meeting the requirements of section 408B,

3 “(2) on each day during the preceding calendar
4 year, had no more than 100 employees, and

5 “(3) did not maintain a qualifying plan or ar-
6 rangement (described in section 408B(b)) during the
7 portion of the calendar year preceding the adoption
8 of the automatic IRA arrangement and the 2 pre-
9 ceding calendar years.

10 “(d) OTHER RULES.—For purposes of this section,
11 the rules of section 45E(e) shall apply.”.

12 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
13 NESS CREDIT.—Section 38(b) is amended by striking
14 “plus” at the end of paragraph (35), by striking the period
15 at the end of paragraph (36) and inserting “, plus”, and
16 by adding at the end the following new paragraph:

17 “(37) in the case of an eligible employer (as de-
18 fined in section 45S(c)) maintaining an automatic
19 IRA arrangement meeting the requirements of sec-
20 tion 408B, the small employer automatic IRA ar-
21 rangement credit determined under section 45S(a).”.

22 (c) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 is amended by adding at the end the following new item:

“Sec. 45S. Small employer automatic IRA arrangement.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2016.

4 **SEC. 4. STUDIES.**

5 (a) IN GENERAL.—The Secretary of the Treasury
6 and the Secretary of Labor shall jointly conduct a separate
7 study of the feasibility and desirability of each of the fol-
8 lowing:

9 (1) Extending to automatic IRA arrangements
10 spousal consent requirements similar to, or based
11 on, those that apply under the Federal Employees'
12 Thrift Savings Plan, including consideration of
13 whether modifications of such requirements are nec-
14 essary to apply them to automatic IRA arrange-
15 ments.

16 (2) Establishing procedures under which
17 amounts saved by employees in retirement bonds
18 would be automatically transferred into alternative
19 diversified investments provided by the private sector
20 when employees' automatic IRA balances reach a
21 certain dollar level as well as procedures facilitating
22 employees' ability to transfer into such private sector
23 investments.

24 (b) STUDY OF CONSOLIDATION OF INDIVIDUAL RE-
25 TIREMENT PLANS.—The Secretary of the Treasury and

1 the Secretary of Labor shall jointly conduct a separate
 2 study of the feasibility and desirability of—

3 (1) using data submitted on investments in in-
 4 dividual retirement accounts and annuities to enable
 5 individuals with multiple such accounts and annu-
 6 ities that include very small amounts to receive peri-
 7 odic notices informing them about the location of
 8 these accounts and how such accounts and annuities
 9 might be consolidated, and

10 (2) using investment arrangements associated
 11 with automatic IRAs to assist in addressing the
 12 problem of abandoned accounts.

13 (c) REPORT.—Not later than 18 months after the
 14 date of the enactment of this Act, the Secretaries shall
 15 report the results of each study conducted under this sec-
 16 tion, together with any recommendations for legislative
 17 changes, to the Committees on Finance and Health, Edu-
 18 cation, Labor, and Pensions of the Senate and the Com-
 19 mittees on Ways and Means and Education and the Work-
 20 force of the House of Representatives.

21 **SEC. 5. ELIMINATING BARRIERS TO USE OF MULTIPLE EM-**
 22 **PLOYER PLANS.**

23 By December 31, 2015, the Secretaries of the Treas-
 24 ury and Labor shall—

1 (1) prescribe administrative guidance estab-
2 lishing conditions under which an employer partici-
3 pating in a plan described in section 413(c) of the
4 Internal Revenue Code of 1986 shall not have any
5 liability under title I of the Employee Retirement In-
6 come Security Act of 1974 with respect to the acts
7 or omissions of one or more other participating em-
8 ployers, which regulations may require that the por-
9 tion of the plan attributable to such participating
10 employers be spun off to plans maintained by such
11 employers,

12 (2) prescribe administrative guidance estab-
13 lishing conditions under which a plan described in
14 section 413(c) of such Code may be treated as satis-
15 fying the qualification requirements of sections
16 401(a) and 413(c) of such Code despite the violation
17 of such requirements by one or more participating
18 employers, including requiring, if appropriate, that
19 the portion of the plan attributable to such partici-
20 pating employers be spun off to plans maintained by
21 such employers, and

22 (3) prescribe administrative guidance providing
23 simplified means by which plans described in section
24 413(c) of such Code may satisfy the requirements of

1 section 103 of the Employee Retirement Income Se-
 2 curity Act of 1974.

3 **SEC. 6. INCREASE IN CREDIT LIMITATION FOR SMALL EM-**
 4 **PLOYER PENSION PLAN STARTUP COSTS.**

5 (a) IN GENERAL.—Section 45E(b)(1) is amended to
 6 read as follows:

7 “(1) for the first credit year and each of the 2
 8 taxable years immediately following the first credit
 9 year, the greater of—

10 “(A) \$500, or

11 “(B) the lesser of—

12 “(i) \$250 for each employee of the eli-
 13 gible employer who is not a highly com-
 14 pensated employee (as defined in section
 15 415(q)) and who is eligible to participate
 16 in the eligible employer plan maintained by
 17 the eligible employer, or

18 “(ii) \$5,000, and”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 2015.

○