

116TH CONGRESS
1ST SESSION

S. 1428

To amend the Internal Revenue Code of 1986 to permit treatment of student loan payments as elective deferrals for purposes of employer matching contributions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2019

Mr. WYDEN (for himself, Ms. CANTWELL, Mr. CARDIN, Mr. WHITEHOUSE, Mr. BROWN, and Ms. HASSAN) 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 permit treatment of student loan payments as elective deferrals for purposes of employer matching contributions, 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 Parity for
5 Student Loans Act”.

1 **SEC. 2. TREATMENT OF STUDENT LOAN PAYMENTS AS**
2 **ELECTIVE DEFERRALS FOR PURPOSES OF**
3 **MATCHING CONTRIBUTIONS.**

4 (a) **IN GENERAL.**—Subparagraph (A) of section
5 401(m)(4) of the Internal Revenue Code of 1986 is
6 amended by striking “and” at the end of clause (i), by
7 striking the period at the end of clause (ii) and inserting
8 “, and”, and by adding at the end the following new
9 clause:

10 “(iii) subject to the requirements of
11 paragraph (13), any employer contribution
12 made to a defined contribution plan on be-
13 half of an employee on account of a quali-
14 fied student loan payment.”.

15 (b) **QUALIFIED STUDENT LOAN PAYMENT.**—Para-
16 graph (4) of section 401(m) of the Internal Revenue Code
17 of 1986 is amended by adding at the end the following
18 new subparagraph:

19 “(D) **QUALIFIED STUDENT LOAN PAY-**
20 **MENT.**—The term ‘qualified student loan pay-
21 ment’ means a payment made by an employee
22 in repayment of a qualified education loan (as
23 defined in section 221(d)(1)) incurred to pay
24 qualified higher education expenses of the em-
25 ployee, but only—

1 “(i) to the extent such payments in
2 the aggregate for the year do not exceed
3 an amount equal to—

4 “(I) the limitation applicable
5 under section 402(g) for the year (or,
6 if lesser, the employee’s compensation
7 (as defined in section 415(c)(3)) for
8 the year), reduced by

9 “(II) the elective deferrals made
10 by the employee for such year, and

11 “(ii) if the employee certifies to the
12 employer making the matching contribu-
13 tion under this paragraph that such pay-
14 ment has been made on such loan.

15 For purposes of this subparagraph, the term
16 ‘qualified higher education expenses’ means the
17 cost of attendance (as defined in section 472 of
18 the Higher Education Act of 1965, as in effect
19 on the day before the date of the enactment of
20 the Taxpayer Relief Act of 1997) at an eligible
21 educational institution (as defined in section
22 221(d)(2)).”.

23 (c) MATCHING CONTRIBUTIONS FOR QUALIFIED
24 STUDENT LOAN PAYMENTS.—Subsection (m) of section
25 401 of the Internal Revenue Code of 1986 is amended by

1 redesignating paragraph (13) as paragraph (14), and by
2 inserting after paragraph (12) the following new para-
3 graph:

4 “(13) MATCHING CONTRIBUTIONS FOR QUALI-
5 FIED STUDENT LOAN PAYMENTS.—

6 “(A) IN GENERAL.—For purposes of para-
7 graph (4)(A)(iii), an employer contribution
8 made to a defined contribution plan on account
9 of a qualified student loan payment shall be
10 treated as a matching contribution for purposes
11 of this title if—

12 “(i) the plan provides matching con-
13 tributions on account of elective deferrals
14 at the same rate as contributions on ac-
15 count of qualified student loan payments,

16 “(ii) the plan provides matching con-
17 tributions on account of qualified student
18 loan payments only on behalf of employees
19 otherwise eligible to make elective defer-
20 rals, and

21 “(iii) under the plan, all employees el-
22 igible to receive matching contributions on
23 account of elective deferrals are eligible to
24 receive matching contributions on account
25 of qualified student loan payments.

1 “(B) TREATMENT FOR PURPOSES OF NON-
2 DISCRIMINATION RULES, ETC.—

3 “(i) NONDISCRIMINATION RULES.—
4 For purposes of subparagraph (A)(iii),
5 subsection (a)(4), and section 410(b),
6 matching contributions described in para-
7 graph (4)(A)(iii) shall not fail to be treated
8 as available to an employee solely because
9 such employee does not have debt incurred
10 under a qualified education loan (as de-
11 fined in section 221(d)(1)).

12 “(ii) STUDENT LOAN PAYMENTS NOT
13 TREATED AS PLAN CONTRIBUTION.—Ex-
14 cept as provided in clause (iii), a qualified
15 student loan payment shall not be treated
16 as a contribution to a plan under this title.

17 “(iii) MATCHING CONTRIBUTION
18 RULES.—Solely for purposes of meeting
19 the requirements of paragraph (11)(B) or
20 (12) of this subsection, or paragraph
21 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
22 section (k), a plan may treat a qualified
23 student loan payment as an elective defer-
24 ral or an elective contribution, whichever is
25 applicable.”.

1 (d) SIMPLE RETIREMENT ACCOUNTS.—Paragraph
2 (2) of section 408(p) of the Internal Revenue Code of
3 1986 is amended by adding at the end the following new
4 subparagraph:

5 “(F) MATCHING CONTRIBUTIONS FOR
6 QUALIFIED STUDENT LOAN PAYMENTS.—

7 “(i) IN GENERAL.—Subject to the
8 rules of clause (iii), an arrangement shall
9 not fail to be treated as meeting the re-
10 quirements of subparagraph (A)(iii) solely
11 because under the arrangement, solely for
12 purposes of such subparagraph, qualified
13 student loan payments are treated as
14 amounts elected by the employee under
15 subparagraph (A)(i)(I) to the extent such
16 payments do not exceed—

17 “(I) the applicable dollar amount
18 under subparagraph (E) (after appli-
19 cation of section 414(v)) for the year
20 (or, if lesser, the employee’s com-
21 pensation (as defined in section
22 415(c)(3)) for the year), reduced by

23 “(II) any other amounts elected
24 by the employee under subparagraph
25 (A)(i)(I) for the year.

1 “(ii) QUALIFIED STUDENT LOAN PAY-
2 MENT.—For purposes of this subpara-
3 graph—

4 “(I) IN GENERAL.—The term
5 ‘qualified student loan payment’
6 means a payment made by an em-
7 ployee in repayment of a qualified
8 education loan (as defined in section
9 221(d)(1)) incurred to pay qualified
10 higher education expenses of the em-
11 ployee, but only if the employee cer-
12 tifies to the employer making the
13 matching contribution that such pay-
14 ment has been made on such a loan.

15 “(II) QUALIFIED HIGHER EDU-
16 CATION EXPENSES.—The term ‘quali-
17 fied higher education expenses’ has
18 the same meaning as when used in
19 section 401(m)(4)(D).

20 “(iii) APPLICABLE RULES.—Clause (i)
21 shall apply to an arrangement only if,
22 under the arrangement—

23 “(I) matching contributions on
24 account of qualified student loan pay-
25 ments are provided only on behalf of

1 employees otherwise eligible to elect
2 contributions under subparagraph
3 (A)(i)(I), and

4 “(II) all employees otherwise eli-
5 gible to participate in the arrange-
6 ment are eligible to receive matching
7 contributions on account of qualified
8 student loan payments.”.

9 (e) 403(b) PLANS.—Subparagraph (A) of section
10 403(b)(12) of the Internal Revenue Code of 1986 is
11 amended by adding at the end the following: “The fact
12 that the employer offers matching contributions on ac-
13 count of qualified student loan payments as described in
14 section 401(m)(13) shall not be taken into account in de-
15 termining whether the arrangement satisfies the require-
16 ments of clause (ii) (and any regulation thereunder).”.

17 (f) 457(b) PLANS.—Subsection (b) of section 457 of
18 the Internal Revenue Code of 1986 is amended by adding
19 at the end the following: “A plan which is established and
20 maintained by an employer which is described in sub-
21 section (e)(1)(A) shall not be treated as failing to meet
22 the requirements of this subsection solely because the
23 plan, or another plan maintained by the employer which
24 meets the requirements of section 401(a), provides for

1 matching contributions on account of qualified student
2 loan payments as described in section 401(m)(13).”.

3 (g) REGULATORY AUTHORITY.—The Secretary shall
4 prescribe regulations for purposes of implementing the
5 amendments made by this section, including regulations—

6 (1) permitting a plan to make matching con-
7 tributions for qualified student loan payments, as
8 defined in sections 401(m)(4)(D) and 408(p)(2)(F)
9 of the Internal Revenue Code of 1986, as added by
10 this section, at a different frequency than matching
11 contributions are otherwise made under the plan,
12 provided that the frequency is not less than annu-
13 ally;

14 (2) permitting employers to establish reasonable
15 procedures to claim matching contributions for such
16 qualified student loan payments under the plan, in-
17 cluding an annual deadline (not earlier than 3
18 months after the close of each plan year) by which
19 a claim must be made; and

20 (3) promulgating model amendments which
21 plans may adopt to implement matching contribu-
22 tions on such qualified student loan payments for
23 purposes of sections 401(m), 408(p), 403(b), and
24 457(b) of the Internal Revenue Code of 1986.

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made for years
3 beginning after December 31, 2019.

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