

117TH CONGRESS
1ST SESSION

S. _____

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

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

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 by the
24 employee to pay qualified higher education ex-
25 penses, 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 receive matching con-
20 tributions on account of elective deferrals,

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, and

1 “(iv) the plan provides that matching
2 contributions on account of qualified stu-
3 dent loan payments vest in the same man-
4 ner as matching contributions on account
5 of elective deferrals.

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

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

17 “(ii) STUDENT LOAN PAYMENTS NOT
18 TREATED AS PLAN CONTRIBUTION.—Ex-
19 cept as provided in clause (iii), a qualified
20 student loan payment shall not be treated
21 as a contribution to a plan under this title.

22 “(iii) MATCHING CONTRIBUTION
23 RULES.—Solely for purposes of meeting
24 the requirements of paragraph (11)(B) or
25 (12) of this subsection, or paragraph

1 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
2 section (k), a plan may treat a qualified
3 student loan payment as an elective deferr-
4 al or an elective contribution, whichever is
5 applicable.

6 “(iv) ACTUAL DEFERRAL PERCENT-
7 AGE TESTING.—In determining whether a
8 plan meets the requirements of subsection
9 (k)(3)(A)(ii) for a plan year, the plan may
10 apply the requirements of such subsection
11 separately with respect to all employees
12 who receive matching contributions de-
13 scribed in paragraph (4)(A)(iii) for the
14 plan year.

15 “(C) EMPLOYER MAY RELY ON EMPLOYEE
16 CERTIFICATION.—The employer may rely on an
17 employee certification of payment under para-
18 graph (4)(D)(ii).”.

19 (d) SIMPLE RETIREMENT ACCOUNTS.—Paragraph
20 (2) of section 408(p) of the Internal Revenue Code of
21 1986 is amended by adding at the end the following new
22 subparagraph:

23 “(F) MATCHING CONTRIBUTIONS FOR
24 QUALIFIED STUDENT LOAN PAYMENTS.—

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

11 “(I) the applicable dollar amount
12 under subparagraph (E) (after appli-
13 cation of section 414(v)) for the year
14 (or, if lesser, the employee’s com-
15 pensation (as defined in section
16 415(c)(3)) for the year), reduced by

17 “(II) any other amounts elected
18 by the employee under subparagraph
19 (A)(i)(I) for the year.

20 “(ii) QUALIFIED STUDENT LOAN PAY-
21 MENT.—For purposes of this subpara-
22 graph—

23 “(I) IN GENERAL.—The term
24 ‘qualified student loan payment’
25 means a payment made by an em-

1 ployee in repayment of a qualified
2 education loan (as defined in section
3 221(d)(1)) incurred to pay qualified
4 higher education expenses, but only if
5 the employee certifies to the employer
6 making the matching contribution
7 that such payment has been made on
8 such a loan.

9 “(II) QUALIFIED HIGHER EDU-
10 CATION EXPENSES.—The term ‘quali-
11 fied higher education expenses’ has
12 the same meaning as when used in
13 section 401(m)(4)(D).

14 “(iii) APPLICABLE RULES.—Clause (i)
15 shall apply to an arrangement only if,
16 under the arrangement—

17 “(I) matching contributions on
18 account of qualified student loan pay-
19 ments are provided only on behalf of
20 employees otherwise eligible to elect
21 contributions under subparagraph
22 (A)(i)(I), and

23 “(II) all employees otherwise eli-
24 gible to participate in the arrange-
25 ment are eligible to receive matching

1 contributions on account of qualified
2 student loan payments.”.

3 (e) 403(b) PLANS.—Subparagraph (A) of section
4 403(b)(12) of the Internal Revenue Code of 1986 is
5 amended by adding at the end the following: “The fact
6 that the employer offers matching contributions on ac-
7 count of qualified student loan payments as described in
8 section 401(m)(13) shall not be taken into account in de-
9 termining whether the arrangement satisfies the require-
10 ments of clause (ii) (and any regulation thereunder).”.

11 (f) 457(b) PLANS.—Subsection (b) of section 457 of
12 the Internal Revenue Code of 1986 is amended by adding
13 at the end the following: “A plan which is established and
14 maintained by an employer which is described in sub-
15 section (e)(1)(A) shall not be treated as failing to meet
16 the requirements of this subsection solely because the
17 plan, or another plan maintained by the employer which
18 meets the requirements of section 401(a), provides for
19 matching contributions on account of qualified student
20 loan payments as described in section 401(m)(13).”.

21 (g) REGULATORY AUTHORITY.—The Secretary of the
22 Treasury (or such Secretary’s delegate) shall prescribe
23 regulations for purposes of implementing the amendments
24 made by this section, including regulations—

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

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

15 (3) promulgating model amendments which
16 plans may adopt to implement matching contribu-
17 tions on such qualified student loan payments for
18 purposes of sections 401(m), 408(p), 403(b), and
19 457(b) of the Internal Revenue Code of 1986.

20 (h) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to contributions made for years
22 beginning after December 31, 2021.