

115TH CONGRESS  
2D SESSION

# S. 3771

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

DECEMBER 18, 2018

Mr. WYDEN (for himself and Mr. CARDIN) 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 provides evidence  
12 of such loan and such payments to the em-  
13 ployer making the matching contribution  
14 under this paragraph.

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           “(C) REGULATORY AUTHORITY.—The Sec-  
2           retary shall prescribe regulations—

3                   “(i) setting forth the conditions under  
4                   which a plan administrator may rely upon  
5                   evidence submitted by an employee of  
6                   qualified student loan payments, and

7                   “(ii) permitting a plan to make  
8                   matching contributions for qualified stu-  
9                   dent loan repayments at a different fre-  
10                  quency than matching contributions are  
11                  otherwise made under the plan, provided  
12                  that the frequency is not less than annu-  
13                  ally.”.

14           (d) SIMPLE RETIREMENT ACCOUNTS.—Paragraph  
15 (2) of section 408(p) of the Internal Revenue Code of  
16 1986 is amended by adding at the end the following new  
17 subparagraph:

18                   “(F) MATCHING CONTRIBUTIONS FOR  
19                   QUALIFIED STUDENT LOAN PAYMENTS.—

20                   “(i) IN GENERAL.—Subject to the  
21                   rules of clause (iii), an arrangement shall  
22                   not fail to be treated as meeting the re-  
23                   quirements of subparagraph (A)(iii) solely  
24                   because under the arrangement, solely for  
25                   purposes of such subparagraph, qualified

1 student loan payments are treated as  
2 amounts elected by the employee under  
3 subparagraph (A)(i)(I) to the extent such  
4 payments do not exceed—

5 “(I) the applicable dollar amount  
6 under subparagraph (E) (after appli-  
7 cation of section 414(v)) for the year  
8 (or, if lesser, the employee’s com-  
9 pensation (as defined in section  
10 415(c)(3)) for the year), reduced by

11 “(II) any other amounts elected  
12 by the employee under subparagraph  
13 (A)(i)(I) for the year.

14 “(ii) QUALIFIED STUDENT LOAN PAY-  
15 MENT.—For purposes of this subpara-  
16 graph—

17 “(I) IN GENERAL.—The term  
18 ‘qualified student loan payment’  
19 means a payment made by an em-  
20 ployee in repayment of a qualified  
21 education loan (as defined in section  
22 221(d)(1)) incurred to pay qualified  
23 higher education expenses of the em-  
24 ployee, but only if the employee pro-  
25 vides evidence of such loan and such

1 payments to the employer making the  
2 matching contribution.

3 “(II) QUALIFIED HIGHER EDU-  
4 CATION EXPENSES.—The term ‘quali-  
5 fied higher education expenses’ has  
6 the same meaning as when used in  
7 section 401(m)(4)(D).

8 “(iii) APPLICABLE RULES.—Clause (i)  
9 shall apply to an arrangement only if,  
10 under the arrangement—

11 “(I) matching contributions on  
12 account of qualified student loan pay-  
13 ments are provided only on behalf of  
14 employees otherwise eligible to elect  
15 contributions under subparagraph  
16 (A)(i)(I), and

17 “(II) all employees otherwise eli-  
18 gible to participate in the arrange-  
19 ment are eligible to receive matching  
20 contributions on account of qualified  
21 student loan payments.”.

22 (e) 403(b) PLANS.—Subparagraph (A) of section  
23 403(b)(12) of the Internal Revenue Code of 1986 is  
24 amended by adding at the end the following: “The fact  
25 that the employer offers matching contributions on ac-



1 count of qualified student loan payments as described in  
2 section 401(m)(13) shall not be taken into account in de-  
3 termining whether the arrangement satisfies the require-  
4 ments of clause (ii) (and any regulation thereunder).”.

5 (f) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to contributions made for years  
7 beginning after December 31, 2019.

○