

117TH CONGRESS  
2D SESSION

# S. 3712

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to provide for periodic automatic reenrollment under qualified automatic contribution arrangements, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2022

Mr. KAINE introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to provide 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 2022”.

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 REQUIRED FOR POST-2024 ARRANGE-  
 12 MENTS.—In the case of a qualified auto-  
 13 matic contribution arrangement which  
 14 takes effect after December 31, 2024, the  
 15 requirements of this subparagraph shall be  
 16 treated as met only if, under the arrange-  
 17 ment, at least every 3 plan years each em-  
 18 ployee—

19 “(I) who is eligible to participate  
 20 in the arrangement, and

21 “(II) who, at the time of the de-  
 22 termination, has in effect an affirma-  
 23 tive election pursuant to clause (ii)  
 24 not to have contributions described in  
 25 clause (i) made,

1 is treated as having made the election de-  
2 scribed in clause (i) unless the employee  
3 makes a new affirmative election under  
4 clause (ii). Such determination may be  
5 made at one time for all employees de-  
6 scribed in the preceding sentence for a  
7 plan year, regardless of individual em-  
8 ployee dates of enrollment.”.

9 (2) CONFORMING AMENDMENTS.—Clause (iv)  
10 of section 401(k)(13)(C) of such Code is amended—

11 (A) in the heading, by inserting “FOR PRE-  
12 2025 ARRANGEMENTS” after “REQUIRED”; and

13 (B) by striking “Clause (i)” and inserting  
14 “In the case of a qualified automatic contribu-  
15 tion arrangement in effect before January 1,  
16 2025, clause (i)”.

17 (b) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGE-  
18 MENTS.—Section 414(w)(3) of the Internal Revenue Code  
19 of 1986 is amended—

20 (1) by redesignating subparagraphs (A) through  
21 (C) as clauses (i) through (iii), respectively, and  
22 moving the margins of such clauses 2 ems to the  
23 right;

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

1           “(A) IN GENERAL.—For purposes of”; and  
2           (3) by adding at the end the following new sub-  
3 paragraph:

4           “(B) PERIODIC AUTOMATIC DEFERRAL RE-  
5 QUIRED.—In the case of an eligible automatic  
6 contribution arrangement taking effect after  
7 December 31, 2024, the requirements of this  
8 subsection shall be treated as met only if, under  
9 the arrangement, at least every 3 plan years  
10 each employee—

11           “(i) who is eligible to participate in  
12 the arrangement, and

13           “(ii) who, at the time of the deter-  
14 mination, has in effect an affirmative elec-  
15 tion pursuant to subparagraph (A)(ii) not  
16 to have contributions described in such  
17 subparagraph made,

18 is treated as having made the election at the  
19 uniform percentage level described in subpara-  
20 graph (A)(ii) unless the employee makes a new  
21 election under such subparagraph. Such deter-  
22 mination may be made at one time for all em-  
23 ployees described in the preceding sentence for  
24 a plan year, regardless of individual employee  
25 dates of enrollment.”.

1 (c) CONFORMING AMENDMENT.—Section 514(e)(2)  
2 of the Employee Retirement Income Security Act of 1974  
3 (29 U.S.C. 1144(e)(2)) is amended—

4 (1) by redesignating subparagraphs (A) through  
5 (C) as clauses (i) through (iii), respectively, and  
6 moving the margins of such clauses 2 ems to the  
7 right;

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

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

11 “(B) In the case of an eligible automatic contribution  
12 arrangement taking effect after December 31, 2024, the  
13 requirements of subparagraph (A)(ii) shall be treated as  
14 met only if, under the arrangement, at least every 3 plan  
15 years each employee—

16 “(i) who is eligible to participate in the ar-  
17 rangement; and

18 “(ii) who, at the time of the determination, has  
19 in effect an affirmative election pursuant to subpara-  
20 graph (A)(ii) not to have contributions described in  
21 such subparagraph made,

22 is treated as having made the election at the uniform per-  
23 centage of compensation described in subparagraph (A)(ii)  
24 unless the employee makes a new election under such sub-  
25 paragraph. Such determination may be made at one time

1 for all employees described in the preceding sentence for  
2 a plan year, regardless of individual employee dates of en-  
3 rollment.”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to arrangements taking effect after  
6 December 31, 2024.

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