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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retirement Parity for Student Loans Act”.
SEC. 2. TREATMENT OF STUDENT LOAN PAYMENTS AS ELECTIVE DEFERRALS FOR PURPOSES OF MATCHING CONTRIBUTIONS.

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

“(iii) subject to the requirements of paragraph (13), any employer contribution made to a defined contribution plan on behalf of an employee on account of a qualified student loan payment.”.

(b) QUALIFIED STUDENT LOAN PAYMENT.—Paragraph (4) of section 401(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(D) QUALIFIED STUDENT LOAN PAYMENT.—The term ‘qualified student loan payment’ means a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred to pay qualified higher education expenses of the employee, but only—
“(i) to the extent such payments in the aggregate for the year do not exceed an amount equal to—

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

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

“(ii) if the employee certifies to the employer making the matching contribution under this paragraph that such payment has been made on such loan.

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

(e) Matching Contributions for Qualified Student Loan Payments.—Subsection (m) of section 401 of the Internal Revenue Code of 1986 is amended by
redesignating paragraph (13) as paragraph (14), and by inserting after paragraph (12) the following new paragraph:

“(13) Matching contributions for qualified student loan payments.—

“(A) In general.—For purposes of paragraph (4)(A)(iii), an employer contribution made to a defined contribution plan on account of a qualified student loan payment shall be treated as a matching contribution for purposes of this title if—

“(i) the plan provides matching contributions on account of elective deferrals at the same rate as contributions on account of qualified student loan payments,

“(ii) the plan provides matching contributions on account of qualified student loan payments only on behalf of employees otherwise eligible to make elective deferrals, and

“(iii) under the plan, all employees eligible to receive matching contributions on account of elective deferrals are eligible to receive matching contributions on account of qualified student loan payments.
“(B) TREATMENT FOR PURPOSES OF NON-
DISCRIMINATION RULES, ETC.—

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

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

“(iii) MATCHING CONTRIBUTION
RULES.—Solely for purposes of meeting
the requirements of paragraph (11)(B) or
(12) of this subsection, or paragraph
(11)(B)(i)(II), (12)(B), or (13)(D) of sub-
section (k), a plan may treat a qualified
student loan payment as an elective deferr-
al or an elective contribution, whichever is
applicable.”.
(d) Simple Retirement Accounts.—Paragraph (2) of section 408(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(F) Matching contributions for qualified student loan payments.—

“(i) In general.—Subject to the rules of clause (iii), an arrangement shall not fail to be treated as meeting the requirements of subparagraph (A)(iii) solely because under the arrangement, solely for purposes of such subparagraph, qualified student loan payments are treated as amounts elected by the employee under subparagraph (A)(i)(I) to the extent such payments do not exceed—

“(I) the applicable dollar amount under subparagraph (E) (after application of section 414(v)) for the year (or, if lesser, the employee’s compensation (as defined in section 415(c)(3)) for the year), reduced by

“(II) any other amounts elected by the employee under subparagraph (A)(i)(I) for the year.
“(ii) Qualified Student Loan Payment.—For purposes of this subpara-
graph—

“(I) In General.—The term ‘qualified student loan payment’ means a payment made by an em-
ployee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred to pay qualified higher education expenses of the em-
ployee, but only if the employee cer-
tifies to the employer making the matching contribution that such pay-
ment has been made on such a loan.

“(II) Qualified Higher Education Expenses.—The term ‘quali-
fied higher education expenses’ has the same meaning as when used in section 401(m)(4)(D).

“(iii) Applicable Rules.—Clause (i) shall apply to an arrangement only if, under the arrangement—

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

“(II) all employees otherwise eligible to participate in the arrangement are eligible to receive matching contributions on account of qualified student loan payments.”.

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

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

(g) **Regulatory Authority.**—The Secretary shall prescribe regulations for purposes of implementing the amendments made by this section, including regulations—

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

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

(3) promulgating model amendments which plans may adopt to implement matching contributions on such qualified student loan payments for purposes of sections 401(m), 408(p), 403(b), and 457(b) of the Internal Revenue Code of 1986.
(h) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made for years beginning after December 31, 2019.