

115TH CONGRESS
1ST SESSION

H. R. 3499

To amend the Internal Revenue Code of 1986 to expand personal saving and retirement savings coverage by enabling employees not covered by qualifying retirement plans to save for retirement through automatic IRA arrangements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Mr. NEAL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to expand personal saving and retirement savings coverage by enabling employees not covered by qualifying retirement plans to save for retirement through automatic IRA 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; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Automatic IRA Act of 2017”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. EMPLOYEES NOT COVERED BY QUALIFYING RE-**
 8 **TIREMENT PLANS OR ARRANGEMENTS ENTI-**
 9 **TLED TO PARTICIPATE IN AUTOMATIC IRA**
 10 **ARRANGEMENTS.**

11 (a) IN GENERAL.—Subpart A of part I of subchapter
 12 D of chapter 1 (relating to pension, profit-sharing, stock
 13 bonus plans, etc.) is amended by inserting after section
 14 408A the following new section:

15 **“SEC. 408B. RIGHT TO AUTOMATIC IRA ARRANGEMENTS AT**
 16 **WORK.**

17 “(a) REQUIREMENT TO PROVIDE AUTOMATIC IRA
 18 ARRANGEMENT.—Each covered employer shall make
 19 available to each qualifying employee of the employer for
 20 the calendar year an automatic IRA arrangement.

21 “(b) COVERED EMPLOYER.—For purposes of this
 22 section—

23 “(1) IN GENERAL.—Except as otherwise pro-
 24 vided in this subsection or subsection (c)(2), the
 25 term ‘covered employer’ means, with respect to any

1 year, an employer which does not maintain a quali-
2 fying plan or arrangement described in section
3 219(g)(5) for the calendar year.

4 “(2) EXCLUDED PLANS.—A qualifying plan or
5 arrangement shall not be taken into account for pur-
6 poses of paragraph (1) if—

7 “(A) the plan or arrangement is frozen as
8 of the first day of the preceding calendar year,
9 or

10 “(B) in the case of a plan or arrangement
11 under which the only contributions are discre-
12 tionary on the part of the employer or other
13 plan sponsor, no employer contribution has
14 been made to the plan or arrangement for the
15 2-plan-year period ending with the last plan
16 year ending in the second preceding calendar
17 year and it is not reasonable to assume that an
18 employer contribution will be made for the last
19 plan year ending in the preceding calendar
20 year.

21 “(3) EXCEPTION FOR CERTAIN SMALL AND
22 NEW EMPLOYERS.—The term ‘covered employer’
23 does not include an employer for a calendar year if
24 the employer either—

1 “(A) did not employ more than 10 employ-
2 ees who received at least \$5,000 of compensa-
3 tion (as defined in section 3401(a)) from the
4 employer for the preceding calendar year,

5 “(B) did not normally employ more than
6 10 employees on a typical business day of the
7 preceding calendar year, or

8 “(C) was not in existence at all times dur-
9 ing the calendar year and the preceding cal-
10 endar year.

11 “(4) EXCEPTION FOR GOVERNMENTS AND
12 CHURCHES.—The term ‘covered employer’ does not
13 include—

14 “(A) a government or entity described in
15 section 414(d), or

16 “(B) a church or a convention or associa-
17 tion of churches which is exempt from tax
18 under section 501.

19 “(5) AGGREGATION RULE.—All persons treated
20 as a single employer under subsection (a) or (b) of
21 section 52 or subsection (m) or (o) of section 414
22 shall be treated as a single employer.

23 “(6) OPERATING RULES.—In determining the
24 number of employees for purposes of this section—

1 “(A) rules consistent with any rules appli-
2 cable in determining the number of employees
3 for purposes of section 408(p)(2)(C) and sec-
4 tion 4980B(d) shall apply,

5 “(B) all members of the same family
6 (within the meaning of section 318(a)(1)) shall
7 be treated as 1 individual, and

8 “(C) any reference to an employer shall in-
9 clude a reference to any predecessor employer.

10 “(c) QUALIFYING EMPLOYEE.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘qualifying em-
13 ployee’ means any employee of the employer who is
14 not an excluded employee.

15 “(2) PLAN SPONSOR’S EMPLOYEES.—If—

16 “(A) an employer maintains one or more
17 qualifying plans or arrangements described in
18 section 219(g)(5), and

19 “(B) the employees of a subsidiary, divi-
20 sion, or other major business unit are generally
21 not eligible to participate in any such qualifying
22 plan or arrangement,

23 then, for purposes of this section, the employer shall
24 be treated as a covered employer with respect to
25 such employees (other than excluded employees),

1 and such employees (other than excluded employees)
2 shall be treated as qualifying employees, but only if
3 there are 50 or more ineligible employees of such
4 subsidiary, division or other major business unit con-
5 stituting at least 10 percent of the employees of the
6 employer (other than excludable employees).

7 “(3) EXCLUDED EMPLOYEES.—

8 “(A) IN GENERAL.—The term ‘excluded
9 employee’ means an employee of the employer
10 who is an excludable employee and who is in a
11 class or category that the employer excludes
12 from treatment as qualifying employees.

13 “(B) EXCLUDABLE EMPLOYEE.—The term
14 ‘excludable employee’ means—

15 “(i) any employee described in section
16 410(b)(3),

17 “(ii) any employee who has not at-
18 tained the age of 18 before the beginning
19 of the calendar year,

20 “(iii) any employee who has not com-
21 pleted at least 3 months of service with the
22 employer,

23 “(iv) in the case of an employer that
24 maintains a qualifying plan or arrange-
25 ment which excludes employees who have

1 not satisfied the minimum age and service
2 requirements for participation in the plan,
3 any employee who has not satisfied such
4 requirements,

5 “(v) in the case of an employer that
6 maintains a section 403(b) annuity con-
7 tract (including a custodial account or re-
8 tirement income account), any employee
9 who is permitted to be excluded from any
10 salary reduction arrangement under the
11 contract pursuant to section 403(b)(12),

12 “(vi) in the case of an employer that
13 maintains an arrangement described in
14 section 408(p), any employee who is not
15 required to be eligible to participate in the
16 arrangement under section 408(p)(4), and

17 “(vii) in the case of an employer that
18 maintains a simplified employee pension
19 described in section 408(k), any employee
20 who is permitted to be excluded from par-
21 ticipation under section 408(k)(2).

22 “(4) GUIDANCE.—The Secretary shall issue
23 regulations or other guidance to carry out this sub-
24 section, including—

1 “(A) guidelines for determining the classes
2 or categories of employees to be covered by an
3 automatic IRA arrangement,

4 “(B) if an employer excludes employees
5 from the automatic IRA arrangement, guide-
6 lines providing that the employer shall specify
7 the classification or categories of employees who
8 are so excluded, and

9 “(C) rules to prevent avoidance of the re-
10 quirements of this section.

11 “(d) AUTOMATIC IRA ARRANGEMENT.—For pur-
12 poses of this section—

13 “(1) IN GENERAL.—The term ‘automatic IRA
14 arrangement’ means an arrangement of an employer
15 (determined without regard to whether the employer
16 is required to maintain the arrangement)—

17 “(A) which covers each qualifying employee
18 of the covered employer for the calendar year,

19 “(B) under which a qualifying employee—

20 “(i) may elect—

21 “(I) to contribute to an indi-
22 vidual retirement plan, or to purchase
23 a qualified retirement bond on behalf
24 of the employee, by having the em-
25 ployer deposit payroll deduction

1 amounts or make other periodic direct
2 deposits (including electronic pay-
3 ments) to the plan or to be invested in
4 retirement bonds (whether to the Sec-
5 retary of the Treasury or to a des-
6 ignated trustee or other agent for that
7 purpose), or

8 “(II) to have such payments paid
9 to the employee directly in cash,

10 “(ii) is treated as having made the
11 election under clause (i)(I) in the amount
12 specified in paragraph (4) until the indi-
13 vidual specifically elects not to have such
14 contributions or purchases made (or spe-
15 cifically elects to have such contributions
16 or purchases made at a different percent-
17 age or in a different amount), and

18 “(iii) may elect to modify the manner
19 in which such amounts are invested for
20 such year,

21 “(C) which meets the administrative re-
22 quirements of paragraph (2), including the no-
23 tice requirement of paragraph (2)(C), and

1 “(D) which does not charge unreasonable
2 additional fees solely on the basis that the bal-
3 ance in an automatic IRA is small.

4 “(2) ADMINISTRATIVE REQUIREMENTS.—

5 “(A) PAYMENTS.—The requirements of
6 this paragraph are met with respect to any
7 automatic IRA arrangement if the employer
8 makes the payments elected or treated as elect-
9 ed under paragraph (1)(B)—

10 “(i) on or before the last day of the
11 month following the month in which the
12 compensation otherwise would have been
13 payable to the employee in cash, or

14 “(ii) before such later deadline pre-
15 scribed by the Secretary for making such
16 payments, but not later than the due date
17 for the deposit of tax required to be de-
18 ducted and withheld under chapter 24 (re-
19 lating to collection of income tax at source
20 on wages) for the payroll period to which
21 such payments relate.

22 “(B) TERMINATION OF EMPLOYEE PAR-
23 TICIPATION.—Subject to a requirement for rea-
24 sonable notice, an employee may elect to termi-
25 nate participation in the arrangement at any

1 time during a calendar year, except that if an
2 employee so terminates, the arrangement may
3 provide that the employee may not elect to re-
4 sume participation until the beginning of the
5 next calendar year.

6 “(C) NOTICE OF ELECTION PERIOD.—The
7 requirements of this paragraph shall not be
8 treated as met with respect to any year unless
9 the employer notifies each employee eligible to
10 participate, within a reasonable period of time
11 before the 30th day before the beginning of
12 such year (and, for the first year the employee
13 is so eligible, the 30th day before the first day
14 such employee is so eligible), of—

15 “(i) the payments that may be elected
16 or treated as elected under paragraph
17 (1)(B),

18 “(ii) the opportunity to make the elec-
19 tion to terminate participation in the ar-
20 rangement under subparagraph (B),

21 “(iii) the opportunity to make the
22 election under paragraph (1)(B)(ii) to have
23 contributions or purchases made at a dif-
24 ferent percentage or in a different amount,
25 and

1 “(iv) the opportunity under paragraph
2 (1)(B)(iii) to modify the manner in which
3 such amounts are invested for such year.

4 “(D) EMPLOYER MAY PERMIT EMPLOYEES
5 TO CHOOSE IRA.—Subject to subsection (f), if
6 the employer so elects, the arrangement pro-
7 vides that an employee may elect to have con-
8 tributions made to any individual retirement
9 plan specified by the employee.

10 “(E) EMPLOYER MAY PERMIT EMPLOYEES
11 TO CHOOSE RETIREMENT BOND.—Subject to
12 subsection (f), if the employer so elects, the ar-
13 rangement provides that an employee may elect
14 to have payments applied toward the purchase
15 of retirement bonds.

16 “(3) DEFAULT INVESTMENTS.—If an employee
17 is treated under clause (ii) of paragraph (1)(B) as
18 having made an election to participate in an auto-
19 matic IRA arrangement—

20 “(A) the employee shall be deemed to have
21 made an election to make contributions and
22 payments in the amount determined under such
23 clause, and

24 “(B) such contributions shall—

1 “(i) if the employer has made an elec-
2 tion under subsection (f)(2), be transferred
3 to an individual retirement plan of the des-
4 ignated trustee or issuer but only if the
5 contributions are invested as provided in
6 paragraph (5), or

7 “(ii) be applied toward the purchase
8 of a retirement bond.

9 “(4) AMOUNT OF CONTRIBUTIONS AND PAY-
10 MENTS.—

11 “(A) IN GENERAL.—The amount specified
12 in this paragraph is—

13 “(i) 3 percent of compensation, or

14 “(ii) such other percentage of com-
15 pensation as is specified in regulations pre-
16 scribed by the Secretary which is not less
17 than 2 percent or more than 6 percent.

18 “(B) AUTHORITY TO PROVIDE FOR PERI-
19 ODIC INCREASES.—In the case of qualifying em-
20 ployees under an automatic IRA arrangement
21 for 2 or more consecutive years, the Secretary
22 may by regulation provide for periodic (not
23 more frequent than annual) increases in the
24 percentage of compensation an employee is
25 deemed to have elected under subparagraph

1 (A). The considerations the Secretary shall take
2 into account in issuing any regulations under
3 this subparagraph and subparagraph (A) shall
4 include the potential effects on lower-income
5 employees as well as on adequacy of savings.

6 “(C) PERMITTED ADDITIONAL PROCE-
7 DURES TO LIMIT CONTRIBUTIONS.—An em-
8 ployer—

9 “(i) shall have no responsibility for
10 any calendar year for determining whether,
11 or ensuring that, the contributions with re-
12 spect to any employee do not exceed the
13 deductible amount in effect for taxable
14 years beginning in the calendar year under
15 section 219(b)(5) (determined without re-
16 gard to subparagraph (B) thereof), and

17 “(ii) shall not be treated as failing to
18 satisfy the requirements of this section or
19 any other provision of this title merely be-
20 cause the employer chooses to limit the
21 contributions under this subsection on be-
22 half of a qualifying employee for any cal-
23 endar year in a manner reasonably de-
24 signed to avoid exceeding such deductible
25 amount.

1 “(5) REQUIRED INVESTMENTS.—

2 “(A) IN GENERAL.—Amounts contributed
3 under paragraph (3)(B)(i) shall be invested
4 only in the class of assets or funds described in
5 subparagraph (B) unless the employer elects a
6 class of assets or funds described in subpara-
7 graph (C), (D), (E), or (F).

8 “(B) TARGET DATE/LIFECYCLE OPTION.—

9 The class of assets or funds described in this
10 subparagraph is the class of assets or funds
11 that constitutes a qualified default investment
12 alternative under Department of Labor regula-
13 tion section 2550.404c-5(e)(4)(i).

14 “(C) PRINCIPAL PRESERVATION.—The
15 class of assets or funds described in this sub-
16 paragraph is the class of assets or funds that
17 is designed to protect the principal of the indi-
18 vidual on an ongoing basis, including passbook
19 savings, certificates of deposit, insurance con-
20 tracts, mutual funds, United States savings
21 bonds (which may be indexed for inflation), in-
22 cluding through a myRA established for the
23 benefit of the employee, and similar assets spec-
24 ified in regulations.

1 “(D) BALANCED OPTION.—The class of
2 assets or funds described in this subparagraph
3 is the class of assets or funds that constitutes
4 a qualified default investment alternative under
5 Department of Labor regulation section
6 2550.404c-5(e)(4)(ii).

7 “(E) GUARANTEED LIFETIME INCOME OP-
8 TION OR EQUIVALENT.—The class of assets or
9 funds described in this subparagraph is the
10 class of assets or funds that is designed to pro-
11 vide an employee with the right to elect to re-
12 ceive distributions as a defined level of income
13 annually (or more frequently) for at least the
14 remainder of the life of the employee or the
15 joint lives of the employee and the employee’s
16 designated beneficiary. No later than 12
17 months after the date of enactment of this Act,
18 the Secretary of Labor and the Secretary shall
19 issue guidance defining a guaranteed lifetime
20 income or equivalent.

21 “(F) OTHER.—Any other class of assets or
22 funds determined by the Secretary to be a
23 qualified investment for purposes of this sec-
24 tion.

1 “(6) COORDINATION WITH WITHHOLDING.—

2 The Secretary shall modify the withholding exemp-
3 tion certificate under section 3402(f) so that, in the
4 case of any qualifying employee covered under an
5 automatic IRA arrangement, any notice and election
6 requirements with respect to the arrangement may
7 be met through the use of an attachment to such
8 certificate or other modifications of the withholding
9 exemption procedures.

10 “(7) TREATMENT AS IRA.—A qualifying em-
11 ployee for whom an automatic IRA is established
12 under paragraph (1) may elect, at such time and in
13 such manner and form as the Secretary may pre-
14 scribe, whether to treat the individual retirement
15 plan as described, or not described, in section 408A.
16 If no such election is made, the plan shall be treated
17 as described in section 408A and shall meet the re-
18 quirements of section 408A and may be a myRA es-
19 tablished for the benefit of the employee.

20 “(8) EMPLOYER’S OPTION TO OBTAIN AFFIRMA-
21 TIVE ELECTIONS FROM EMPLOYEES INSTEAD OF
22 AUTOMATIC ENROLLMENT.—As an alternative to
23 automatic enrollment, an employer may choose to
24 comply with subsection (d)(1)(B)(ii) by notifying
25 employees that the employer wishes to obtain from

1 each qualifying employee an affirmative election ei-
 2 ther to contribute or not to contribute to an auto-
 3 matic IRA, provided that any qualifying employee
 4 who fails to make such an election is treated in the
 5 manner provided under subsection (d)(1)(B)(ii).

6 “(e) AUTOMATIC IRA CONTRIBUTIONS AND RETIRE-
 7 MENT BOND PURCHASES TREATED LIKE OTHER CON-
 8 TRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

9 “(1) TAX TREATMENT UNAFFECTED.—The fact
 10 that a contribution to an individual retirement plan
 11 or purchase of a retirement bond is made on behalf
 12 of an employee under an automatic IRA arrange-
 13 ment instead of being made directly by the employee
 14 shall not affect the deductibility or other tax treat-
 15 ment of the contribution or of other amounts under
 16 this title.

17 “(2) PAYROLL SAVINGS CONTRIBUTIONS TAKEN
 18 INTO ACCOUNT.—Any contribution to an individual
 19 retirement plan or purchase of a retirement bond
 20 made on behalf of an employee under an automatic
 21 IRA arrangement shall be taken into account in ap-
 22 plying the limitations on contributions to individual
 23 retirement plans and the other provisions of this
 24 title applicable to individual retirement plans as if

1 the contribution or purchase had been made directly
2 by the employee.

3 “(f) DEPOSITS TO PLANS OF A DESIGNATED TRUST-
4 EE OR ISSUER AND FOR RETIREMENT BONDS.—

5 “(1) IN GENERAL.—An employer shall not be
6 treated as failing to satisfy the requirements of this
7 section or any other provision of this title merely be-
8 cause the employer makes all contributions (or all
9 contributions on behalf of employees who do not
10 specify an individual retirement plan, trustee, or
11 issuer to receive the contributions) to individual re-
12 tirement plans specified in paragraph (2) or to the
13 Secretary or his agent for the purchase of retirement
14 bonds specified in paragraph (3).

15 “(2) INDIVIDUAL RETIREMENT PLANS OTHER
16 THAN THOSE SELECTED BY EMPLOYEE.—An em-
17 ployer may elect to have contributions for all quali-
18 fying employees participating in an automatic IRA
19 arrangement made to individual retirement plans of
20 a trustee or issuer under the arrangement that has
21 been designated by the employer. The preceding sen-
22 tence shall not apply unless each participant is noti-
23 fied in writing that the participant’s balance may be
24 transferred without cost or penalty to another indi-

vidual retirement plan established by or on behalf of the participant.

“(3) RETIREMENT BONDS.—

“(A) IN GENERAL.—The Secretary shall provide that contributions deposited under subparagraph (B) shall be applied to the purchase of a retirement bond in the name of each applicable employee.

“(B) PAYROLL DEPOSIT FEATURES.—The Secretary shall establish procedures so that contributions may be applied to the purchase of retirement bonds without undue administrative or paperwork requirements on participating employers. Such procedures shall ensure that only 1 such retirement bond of each type (traditional or Roth) is issued for each TIN.

“(4) PAYROLL TAX DEPOSIT PROCEDURE.—The procedures the Secretary shall establish may include a procedure under which an employer—

“(A) may include with each deposit of tax required to be deducted and withheld under chapter 24 the aggregate amounts, for the period covered by the deposit, which qualifying employees have designated under clause (i)(I) of subsection (d)(1)(B) (or are deemed to have

designated under clause (ii) of such subsection)
as contributions to purchase retirement bonds
on behalf of the employees under paragraph
(3), and

“(B) specifies, in such manner as the Secretary may prescribe, information needed to purchase retirement bonds on behalf of each applicable employee for whom a contribution is to be made, including—

“(i) the employee’s name and TIN,
and

“(ii) the amount of the contribution.

“(5) PURPOSES.—The purposes of the retirement bond program established under this subsection and subsection (g) include—

“(A) providing new savers a convenient, low-cost investment option suitable for the initial accumulation of small automatic IRA contributions,

“(B) reflecting the intent that the long-term investment of automatic IRA funds for most savers be in the private market rather than in retirement bonds, encouraging and assisting individuals who accumulate larger amounts in retirement bonds to transfer those

1 funds to individual retirement plans in the pri-
2 vate market, while

3 “(C) permitting individuals to remain in-
4 vested in retirement bonds if they choose to do
5 so.

6 “(6) REGULATIONS.—The Secretary may issue
7 such regulations as are necessary to carry out the
8 purposes of this subsection and subsection (g), in-
9 cluding—

10 “(A) establishment of procedures to com-
11 municate to individuals the importance of in-
12 vestment diversification and the transfer option
13 described in subparagraph (B),

14 “(B) simplified procedures under which
15 holders of retirement bonds may periodically
16 choose to have the bonds or their proceeds
17 transferred to available individual retirement
18 plans, and

19 “(C) means by which individuals may elect
20 (or be treated as electing) whether to have re-
21 tirement bonds or their proceeds so transferred.

22 Any such transfer shall be treated as a rollover con-
23 tribution for purposes of section 408(d)(3) (other
24 than subparagraph (B) thereof).

25 “(g) RETIREMENT BOND.—

1 “(1) RETIREMENT BOND.—For purposes of this
2 section, the term ‘retirement bond’ means a bond
3 issued under chapter 31 of title 31, which by its
4 terms, or by regulations prescribed by the Secretary
5 under such chapter—

6 “(A) provides for interest to be credited at
7 rates that take into account the expected dura-
8 tion of the funds invested in retirement bonds
9 and at rates determined or adjusted in a man-
10 ner and with sufficient frequency to provide
11 substantial protection from inflation,

12 “(B) is not transferable, and

13 “(C) is designed for investment for retire-
14 ment under automatic IRA arrangements or
15 other savings vehicles.

16 “(2) INDIVIDUAL RETIREMENT PLAN RULES AP-
17 PLICABLE.—The provisions of this title applicable to
18 an individual retirement plan (as defined in section
19 7701(a)(37)), including provisions relating to con-
20 tributions, holding and distributions, shall apply to
21 a retirement bond, except as determined by the Sec-
22 retary.

23 “(3) ANNUAL STATEMENT.—As soon as prac-
24 ticable after the close of the calendar year, the Sec-

1 retary shall make available an annual statement to
2 each participant setting forth—

3 “(A) payments made by or on behalf of the
4 participant for the retirement bond,

5 “(B) amounts earned by the retirement
6 bond,

7 “(C) the value of the account as of the
8 close of such calendar year,

9 “(D) the importance of diversifying retire-
10 ment savings,

11 “(E) the benefits of a well-balanced and di-
12 versified investment portfolio,

13 “(F) a notice of the internet website of the
14 Department of Labor for sources of information
15 on individual investing and diversification,

16 “(G) the procedures for redeeming a re-
17 tirement bond and directly transferring the re-
18 deemed amount into an individual retirement
19 plan,

20 “(H) other factors affecting retirement
21 savings decisions, and

22 “(I) such other information as the Sec-
23 retary determines necessary or appropriate.

24 “(h) MODEL NOTICE.—The Secretary shall—

1 “(1) provide a model notice, written in a man-
2 ner calculated to be understandable to the average
3 worker, that is simple for employers to use—

4 “(A) to notify employees of the require-
5 ment under this section for the employer to pro-
6 vide certain employees with the opportunity to
7 participate in an automatic IRA arrangement,
8 and

9 “(B) to satisfy the requirements of sub-
10 section (d)(2)(C),

11 “(2) provide uniform forms for enrollment, in-
12 cluding automatic enrollment, in an automatic IRA
13 arrangement, and

14 “(3) establish a website or other electronic
15 means that small employers can access and use to
16 obtain information on automatic IRA arrangements
17 and to obtain required notices and forms.

18 The information referred to in paragraph (3) shall
19 be provided in a manner designed to assist employ-
20 ers and providers by facilitating the identification by
21 employers of private-sector providers of individual
22 retirement plans and associated investment options
23 that are appropriate for use in automatic IRA ar-
24 rangements.

1 “(i) CROSS REFERENCE.—For provision preempting
2 conflicting State laws, see section 2(k) of the Automatic
3 IRA Act of 2017.”.

4 (b) MANDATORY TRANSFERS.—Section
5 401(a)(31)(B) is amended—

6 (1) by inserting “(including an automatic IRA
7 arrangement)” after “individual retirement plan”
8 each place it appears, and

9 (2) by adding at the end the following new sen-
10 tence: “Any amount so transferred (and any earn-
11 ings thereon) shall be invested in a default invest-
12 ment described in section 408B(d)(5).”.

13 (c) PENALTY FOR FAILURE TO TIMELY REMIT CON-
14 TRIBUTIONS TO AUTOMATIC IRA ARRANGEMENTS.—Sec-
15 tion 4975(c) is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(7) SPECIAL RULE FOR AUTOMATIC IRA AR-
18 RANGEMENTS.—For purposes of paragraph (1), if
19 an employer is required under an automatic IRA ar-
20 rangement under section 408B to deposit amounts
21 withheld from an employee’s compensation into an
22 automatic IRA or toward the purchase of a retire-
23 ment bond but fails to do so within the time pre-
24 scribed under section 408B(d)(2)(A), such amounts
25 shall be treated as assets of the automatic IRA.”.

1 (d) COORDINATION WITH EMPLOYEE RETIREMENT
2 INCOME SECURITY ACT OF 1974.—

3 (1) EXEMPTION.—

4 (A) IN GENERAL.—Section 3(2) of the
5 Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1002(2)) is amended—

7 (i) by inserting “or (C)” after “sub-
8 paragraph (B)” in subparagraph (A), and

9 (ii) by adding at the end the following
10 new subparagraph:

11 “(C) An automatic IRA arrangement de-
12 scribed in section 408B(d) of the Internal Rev-
13 enue Code of 1986 shall not be treated as an
14 employee pension benefit plan or pension plan
15 if, under the arrangement, contributions are to
16 be made to an automatic IRA the provider of
17 which is included in the website list established
18 under section 408B(h)(3) of such Code, are to
19 be made to an individual retirement plan des-
20 ignated by the employee, or are to be invested
21 in retirement bonds (whether to the Secretary
22 of the Treasury or to a designated trustee or
23 other agent for that purpose).”.

24 (B) CUSTOMER IDENTIFICATION PRO-
25 GRAM.—Notwithstanding the amendment made

1 by subparagraph (A), an individual retirement
2 plan established pursuant to an automatic IRA
3 arrangement described in section 408B(d) of
4 the Internal Revenue Code of 1986 shall, for
5 purposes of any customer identification pro-
6 gram established under section 5318(l) of title
7 31, United States Code, be treated as an ac-
8 count opened for the purpose of participating in
9 an employee benefit plan established under the
10 Employee Retirement Income Security Act of
11 1974.

12 (2) FIDUCIARY DUTIES.—Section 404(c)(2) of
13 such Act is amended—

14 (A) by inserting the following sentence be-
15 fore the last sentence: “In the case of an auto-
16 matic IRA under section 408B of such Code
17 that is not exempt under section 3(2)(C), a par-
18 ticipant or beneficiary shall, for purposes of
19 paragraph (1), be treated as exercising control
20 over the assets in the account on and after the
21 7th day after notice has been given to an em-
22 ployee that such automatic IRA has been estab-
23 lished on behalf of the employee.”, and

24 (B) by inserting “or with respect to an
25 automatic IRA under section 408B of such

1 Code” after “arrangement” in the last sen-
2 tence.

3 (e) NOTICE OF AVAILABILITY OF INVESTMENT
4 GUIDELINES.—

5 (1) IN GENERAL.—Section 408(i) (relating to
6 reports) is amended by adding at the end the fol-
7 lowing new sentences: “Any report furnished under
8 paragraph (2) to an individual shall include notice of
9 the internet website of the Department of Labor for
10 sources of information on individual investing and
11 diversification.”.

12 (2) UPDATE INFORMATION.—Such information
13 shall be modified (or updated) by the Secretary of
14 Labor in consultation with the Secretary of the
15 Treasury and the Chairman of the Securities and
16 Exchange Commission to address needed changes
17 due to the creation of automatic IRAs.

18 (f) FAILURE TO PROVIDE ACCESS TO PAYROLL SAV-
19 INGS ARRANGEMENTS.—Chapter 43 (relating to qualified
20 pension, etc., plans) is amended by adding at the end the
21 following new section:

1 **“SEC. 4980J. REQUIREMENTS FOR COVERED EMPLOYERS**
2 **TO PROVIDE EMPLOYEES ACCESS TO AUTO-**
3 **MATIC IRA ARRANGEMENTS.**

4 “(a) GENERAL RULE.—There is hereby imposed a
5 tax on any failure by a covered employer (as defined in
6 section 408B) to meet the requirements of subsection (d)
7 for a calendar year.

8 “(b) AMOUNT.—

9 “(1) IN GENERAL.—The amount of the tax im-
10 posed by subsection (a) on any failure for any cal-
11 endar year shall be \$100 with respect to each em-
12 ployee to whom such failure relates.

13 “(2) TAX NOT TO APPLY WHERE FAILURE NOT
14 DISCOVERED AND REASONABLE DILIGENCE EXER-
15 CISED.—No tax shall be imposed by subsection (a)
16 on any failure during any period for which it is es-
17 tablished to the satisfaction of the Secretary that the
18 employer subject to liability for the tax did not know
19 that the failure existed and exercised reasonable dili-
20 gence to meet the requirements of subsection (d).

21 “(3) TAX NOT TO APPLY TO FAILURES COR-
22 RECTED WITHIN 90 DAYS.—No tax shall be imposed
23 by subsection (a) on any failure if—

24 “(A) the employer subject to liability for
25 the tax under subsection (a) exercised reason-

1 able diligence to meet the requirements of sub-
2 section (d), and

3 “(B) the employer provides the automatic
4 IRA arrangement described in section 408B to
5 each employee eligible to participate in the ar-
6 rangement by the end of the 90-day period be-
7 ginning on the first date the employer knew, or
8 exercising reasonable diligence would have
9 known, that such failure existed.

10 “(4) WAIVER BY SECRETARY.—In the case of a
11 failure which is due to reasonable cause and not to
12 willful neglect, the Secretary may waive part or all
13 of the tax imposed by subsection (a) to the extent
14 that the payment of such tax would be excessive or
15 otherwise inequitable relative to the failure involved.

16 “(c) PROCEDURES FOR NOTICE.—The Secretary may
17 prescribe and implement procedures for obtaining con-
18 firmation that employers are in compliance with the re-
19 quirements of subsection (d). The Secretary, in the Sec-
20 retary’s discretion, may prescribe that the confirmation
21 shall be obtained on an annual or less frequent basis, and
22 may use for this purpose the annual report or quarterly
23 report for employment taxes, or such other means as the
24 Secretary may deem advisable.

1 “(d) REQUIREMENT TO PROVIDE EMPLOYEE ACCESS
 2 TO AUTOMATIC IRA ARRANGEMENTS.—The requirements
 3 of this subsection are met if the employer meets the re-
 4 quirements of section 408B.”.

5 (g) WAIVER OF EARLY WITHDRAWAL PENALTY FOR
 6 CERTAIN DISTRIBUTIONS FOLLOWING INITIAL ELECTION
 7 TO PARTICIPATE IN AUTOMATIC IRA ARRANGEMENT.—
 8 Section 72(t) is amended by adding at the end the fol-
 9 lowing new paragraph:

10 “(11) DISTRIBUTION FOLLOWING INITIAL
 11 ELECTION TO PARTICIPATE IN AUTOMATIC IRA AR-
 12 RANGEMENT.—Paragraph (1) shall not apply in the
 13 case of a distribution to a qualifying employee made
 14 not later than 90 days after the initial election
 15 under section 408B(d)(1)(B)(ii).”.

16 (h) BANKRUPTCY.—Section 522 of title 11, United
 17 States Code, is amended—

18 (1) in subsection (d)(12) by inserting “408B,”
 19 after “408A,” and

20 (2) in subsection (n) by inserting “, or in an
 21 automatic IRA arrangement described in section
 22 408B,”.

23 (i) AUTOMATIC IRA ADVISORY GROUP.—

24 (1) IN GENERAL.—Not later than 60 days after
 25 the date of the enactment of this Act, the Secretary

1 of the Treasury and the Secretary of Labor shall
2 jointly establish an Automatic IRA Advisory Group
3 (in this subsection referred to as the “Advisory
4 Group”). The purpose of the Advisory Group shall
5 be to make recommendations regarding the auto-
6 matic IRA investment options described in section
7 408B(d)(5) of the Internal Revenue Code of 1986
8 and the website described in section 408B(h)(3) of
9 such Code, including, with respect to automatic IRA
10 arrangements, the disclosure of information regard-
11 ing fees and expenses, the use of low-cost investment
12 options, the appropriate use of electronic methods to
13 provide notice and disclosure, and such other related
14 matters as may be determined by the Secretaries.

15 (2) MEMBERSHIP.—The Advisory Group shall
16 consist of not more than 15 members and shall be
17 composed of—

18 (A) such persons as the Secretaries of the
19 Treasury and Labor may consider appropriate
20 to provide expertise regarding investments for
21 retirement, including providers of individual re-
22 tirement accounts and individual retirement an-
23 nuities described in section 408 or 408A of
24 such Code, and

1 (B) one or more representatives of the De-
2 partment of Labor and of the Department of
3 the Treasury.

4 (3) COMPENSATION.—The members of the Ad-
5 visory Group shall serve without compensation.

6 (4) ADMINISTRATIVE SUPPORT.—The Depart-
7 ment of the Treasury and the Department of Labor
8 shall jointly provide appropriate administrative sup-
9 port to the Advisory Group, including technical as-
10 sistance. The Advisory Group may use the services
11 and facilities of such Departments, with or without
12 reimbursement, as jointly determined by such De-
13 partments.

14 (5) REPORT BY ADVISORY GROUP.—Not later
15 than 12 months after the date of the enactment of
16 this Act, the Advisory Group shall submit to the
17 Secretary of Labor and the Secretary of the Treas-
18 ury a report containing its recommendations. The
19 Secretaries may request that the Advisory Group
20 submit subsequent reports.

21 (j) CONFORMING AMENDMENTS.—

22 (1) The table of sections for subpart A of part
23 I of subchapter D of chapter 1 is amended by insert-
24 ing after the item relating to section 408A the fol-
25 lowing new item:

“Sec. 408B. Right to automatic IRA arrangements at work.”.

1 (2) The table of sections for chapter 43 is
 2 amended by adding at the end the following new
 3 item:

“Sec. 4980J. Requirements for employers to provide employees access to automatic IRA arrangements.”.

4 (k) PREEMPTION OF CONFLICTING STATE LAWS.—
 5 The amendments made by this section shall supersede any
 6 law of a State that would directly or indirectly prohibit
 7 or restrict the establishment or operation of an automatic
 8 IRA arrangement meeting the requirements of section
 9 408B of the Internal Revenue Code of 1986. Nothing in
 10 such amendments shall be construed to impair or super-
 11 sede any State law to the extent it provides a remedy for
 12 the failure to make payroll deposit payments under any
 13 such automatic IRA arrangement within the period re-
 14 quired under such section 408B.

15 (l) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to calendar years beginning after
 17 December 31, 2018.

18 **SEC. 3. CREDIT FOR SMALL EMPLOYERS MAINTAINING**
 19 **AUTOMATIC IRA ARRANGEMENTS.**

20 (a) IN GENERAL.—Subpart D of part IV of sub-
 21 chapter A of chapter 1 (relating to business related cred-
 22 its) is amended by adding at the end the following new
 23 section:

1 **“SEC. 45S. SMALL EMPLOYER AUTOMATIC IRA ARRANGE-**
2 **MENT.**

3 “(a) GENERAL RULE.—For purposes of section 38,
4 in the case of an eligible employer maintaining an auto-
5 matic IRA arrangement meeting the requirements of sec-
6 tion 408B (without regard to whether the employer is re-
7 quired to maintain the arrangement), the small employer
8 automatic IRA arrangement credit determined under this
9 section for any taxable year is the amount determined
10 under subsection (b).

11 “(b) AMOUNT OF CREDIT.—

12 “(1) IN GENERAL.—The amount of the credit
13 determined under this section for any taxable year
14 with respect to an eligible employer shall be the sum
15 of—

16 “(A) \$25 multiplied by the number of
17 qualifying employees (within the meaning of
18 section 408B(c)) for whom contributions are
19 made under the automatic IRA arrangement re-
20 ferred to in subsection (a) for the calendar year
21 in which the taxable year begins, plus

22 “(B) \$500 for the taxable year which be-
23 gins in the first calendar year, and \$250 for the
24 taxable year which begins in the second cal-
25 endar year, in which the eligible employer main-

1 tains an automatic IRA arrangement meeting
2 the requirements of section 408B.

3 “(2) LIMITATION.—No more than 10 qualifying
4 employees may be taken into account under para-
5 graph (1)(A) for a taxable year.

6 “(3) DURATION OF CREDIT.—The credit de-
7 scribed in paragraph (1)(A) shall apply only for a
8 taxable year which begins in the first 6 calendar
9 years in which the eligible employer maintains an
10 automatic IRA arrangement meeting the require-
11 ments of section 408B.

12 “(4) COORDINATION WITH SMALL EMPLOYER
13 STARTUP CREDIT.—

14 “(A) No credit shall be allowed under this
15 section to the employer for any taxable year if
16 a credit is determined under section 45E with
17 respect to the employer for the taxable year.

18 “(B) If the eligible employer maintains an
19 automatic IRA arrangement meeting the re-
20 quirements of section 408B with respect to any
21 of the first three calendar years for which the
22 employer could adopt such an arrangement and
23 subsequently adopts an eligible employer plan
24 for its employees for any of those years which
25 it maintains for such third taxable year, then

1 section 45E(b)(1) shall be applied with respect
 2 to the eligible employer by replacing ‘2 taxable
 3 years’ with ‘3 taxable years’.

4 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 5 section, the term ‘eligible employer’ means, with respect
 6 to any calendar year in which the taxable year begins, an
 7 employer which—

8 “(1) maintains an automatic IRA arrangement
 9 meeting the requirements of section 408B,

10 “(2) on each day during the preceding calendar
 11 year, had no more than 100 employees, and

12 “(3) did not maintain a qualifying plan or ar-
 13 rangement (described in section 408B(b)) during the
 14 portion of the calendar year preceding the adoption
 15 of the automatic IRA arrangement and the 2 pre-
 16 ceding calendar years.

17 “(d) OTHER RULES.—For purposes of this section,
 18 the rules of section 45E(e) shall apply.”.

19 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 20 NESS CREDIT.—Section 38(b) is amended by striking
 21 “plus” at the end of paragraph (35), by striking the period
 22 at the end of paragraph (36) and inserting “, plus”, and
 23 by adding at the end the following new paragraph:

24 “(37) in the case of an eligible employer (as de-
 25 fined in section 45S(c)) maintaining an automatic

1 IRA arrangement meeting the requirements of sec-
 2 tion 408B, the small employer automatic IRA ar-
 3 rangement credit determined under section 45S(a).”.

4 (c) CLERICAL AMENDMENT.—The table of sections
 5 for subpart D of part IV of subchapter A of chapter 1
 6 is amended by adding at the end the following new item:

“Sec. 45S. Small employer automatic IRA arrangement.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 2018.

10 **SEC. 4. STUDIES.**

11 (a) IN GENERAL.—The Secretary of the Treasury
 12 and the Secretary of Labor shall jointly conduct a separate
 13 study of the feasibility and desirability of each of the fol-
 14 lowing:

15 (1) Extending to automatic IRA arrangements
 16 spousal consent requirements similar to, or based
 17 on, those that apply under the Federal Employees’
 18 Thrift Savings Plan, including consideration of
 19 whether modifications of such requirements are nec-
 20 essary to apply them to automatic IRA arrange-
 21 ments.

22 (2) Establishing procedures under which
 23 amounts saved by employees in retirement bonds
 24 would be automatically transferred into alternative
 25 diversified investments provided by the private sector

1 when employees' automatic IRA balances reach a
2 certain dollar level as well as procedures facilitating
3 employees' ability to transfer into such private sector
4 investments.

5 (b) STUDY OF CONSOLIDATION OF INDIVIDUAL RE-
6 TIREMENT PLANS.—The Secretary of the Treasury and
7 the Secretary of Labor shall jointly conduct a separate
8 study of the feasibility and desirability of—

9 (1) using data submitted on investments in in-
10 dividual retirement accounts and annuities to enable
11 individuals with multiple such accounts and annu-
12 ities that include very small amounts to receive peri-
13 odic notices informing them about the location of
14 these accounts and how such accounts and annuities
15 might be consolidated, and

16 (2) using investment arrangements associated
17 with automatic IRAs to assist in addressing the
18 problem of abandoned accounts.

19 (c) REPORT.—Not later than 18 months after the
20 date of the enactment of this Act, the Secretaries shall
21 report the results of each study conducted under this sec-
22 tion, together with any recommendations for legislative
23 changes, to the Committees on Finance and Health, Edu-
24 cation, Labor, and Pensions of the Senate and the Com-

1 mittees on Ways and Means and Education and the Work-
2 force of the House of Representatives.

3 **SEC. 5. ELIMINATING BARRIERS TO USE OF MULTIPLE EM-**
4 **PLOYER PLANS.**

5 By December 31, 2018, the Secretaries of the Treas-
6 ury and Labor shall—

7 (1) prescribe administrative guidance estab-
8 lishing conditions under which an employer partici-
9 pating in a plan described in section 413(c) of the
10 Internal Revenue Code of 1986 shall not have any
11 liability under title I of the Employee Retirement In-
12 come Security Act of 1974 with respect to the acts
13 or omissions of one or more other participating em-
14 ployers, which regulations may require that the por-
15 tion of the plan attributable to such participating
16 employers be spun off to plans maintained by such
17 employers,

18 (2) prescribe administrative guidance estab-
19 lishing conditions under which a plan described in
20 section 413(c) of such Code may be treated as satis-
21 fying the qualification requirements of sections
22 401(a) and 413(c) of such Code despite the violation
23 of such requirements by one or more participating
24 employers, including requiring, if appropriate, that
25 the portion of the plan attributable to such partici-

1 pating employers be spun off to plans maintained by
 2 such employers, and

3 (3) prescribe administrative guidance providing
 4 simplified means by which plans described in section
 5 413(c) of such Code may satisfy the requirements of
 6 section 103 of the Employee Retirement Income Se-
 7 curity Act of 1974.

8 **SEC. 6. INCREASE IN CREDIT LIMITATION FOR SMALL EM-**
 9 **PLOYER PENSION PLAN STARTUP COSTS.**

10 (a) IN GENERAL.—Section 45E(b)(1) is amended to
 11 read as follows:

12 “(1) for the first credit year and each of the 2
 13 taxable years immediately following the first credit
 14 year, the greater of—

15 “(A) \$500, or

16 “(B) the lesser of—

17 “(i) \$250 for each employee of the eli-
 18 gible employer who is not a highly com-
 19 pensated employee (as defined in section
 20 415(q)) and who is eligible to participate
 21 in the eligible employer plan maintained by
 22 the eligible employer, or

23 “(ii) \$5,000, and”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

○