

**Amendment to the Amendment in the Nature of a Substitute to Subtitle B. Budget
Reconciliation Legislative Recommendations Relating to Retirement
Offered by Mr. Brady of Texas**

This amendment would restore the bipartisan auto-enrollment provision in H.R. 2954 (117th Congress), as reported by the Committee on Ways and Means by voice vote, and protect small businesses from a new federal retirement mandate. (The No New Mandates From Washington Amendment.)

AMENDMENT

OFFERED BY Mr. Brady

Strike part 1 and insert the following:

1 **PART 1—EXPANDING AUTOMATIC ENROLLMENT**

2 **SEC. 131101. EXPANDING AUTOMATIC ENROLLMENT IN RE-**
3 **TIREMENT PLANS.**

4 (a) **IN GENERAL.**—Subpart B of part I of subchapter
5 D of chapter 1 is amended by inserting after section 414
6 the following new section:

7 **“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC EN-**
8 **ROLLMENT.**

9 “(a) **IN GENERAL.**—Except as otherwise provided in
10 this section—

11 “(1) an arrangement shall not be treated as a
12 qualified cash or deferred arrangement described in
13 section 401(k) unless such arrangement meets the
14 automatic enrollment requirements of subsection (b),
15 and

16 “(2) an annuity contract otherwise described in
17 section 403(b)(1) which is purchased under a salary
18 reduction agreement shall not be treated as de-
19 scribed in such section unless such agreement meets

1 the automatic enrollment requirements of subsection
2 (b).

3 “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

4 “(1) IN GENERAL.—An arrangement or agree-
5 ment meets the requirements of this subsection if
6 such arrangement or agreement is an eligible auto-
7 matic contribution arrangement (as defined in sec-
8 tion 414(w)(3)) which meets the requirements of
9 paragraphs (2) through (4).

10 “(2) ALLOWANCE OF PERMISSIBLE WITH-
11 DRAWALS.—An eligible automatic contribution ar-
12 rangement meets the requirements of this paragraph
13 if such arrangement allows employees to make per-
14 missible withdrawals (as defined in section
15 414(w)(2)).

16 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

17 “(A) IN GENERAL.—An eligible automatic
18 contribution arrangement meets the require-
19 ments of this paragraph if—

20 “(i) the uniform percentage of com-
21 pensation contributed by the participant
22 under such arrangement during the first
23 year of participation is not less than 3 per-
24 cent and not more than 10 percent (unless
25 the participant specifically elects not to

1 have such contributions made or to have
2 such contributions made at a different per-
3 centage), and

4 “(ii) effective for the first day of each
5 plan year starting after each completed
6 year of participation under such arrange-
7 ment such uniform percentage is increased
8 by 1 percentage point (to at least 10 per-
9 cent, but not more than 15 percent) unless
10 the participant specifically elects not to
11 have such contributions made or to have
12 such contributions made at a different per-
13 centage.

14 “(B) INITIAL REDUCED CEILING FOR CER-
15 TAIN PLANS.—In the case of any arrangement
16 to which this section applies (other than an ar-
17 rangement that meets the requirements of para-
18 graph (12) or (13) of section 401(k)), for plan
19 years ending before January 1, 2025, subpara-
20 graph (A)(ii) shall be applied by substituting
21 ‘10 percent’ for ‘15 percent’.

22 “(4) INVESTMENT REQUIREMENTS.—An eligible
23 automatic contribution arrangement meets the re-
24 quirements of this paragraph if amounts contributed
25 pursuant to such arrangement, and for which no in-

1 vestment is elected by the participant, are invested
2 consistent with the requirements of section
3 2550.404e-5 of title 29, Code of Federal Regula-
4 tions (or any successor regulations).

5 “(c) EXCEPTIONS.—For purposes of this section—

6 “(1) SIMPLE PLANS.—Subsection (a) shall not
7 apply to any simple plan (within the meaning of sec-
8 tion 401(k)(11)).

9 “(2) EXCEPTION FOR PLANS OR ARRANGE-
10 MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-
11 TION.—

12 “(A) IN GENERAL.—Subsection (a) shall
13 not apply to—

14 “(i) any qualified cash or deferred ar-
15 rangement established before the date of
16 the enactment of this section, or

17 “(ii) any annuity contract purchased
18 under a plan established before the date of
19 the enactment of this section.

20 “(B) POST-ENACTMENT ADOPTION OF
21 MULTIPLE EMPLOYER PLAN.—Subparagraph
22 (A) shall not apply in the case of an employer
23 adopting after such date of enactment a plan
24 maintained by more than one employer, and

1 subsection (a) shall apply with respect to such
2 employer as if such plan were a single plan.

3 “(3) EXCEPTION FOR GOVERNMENTAL AND
4 CHURCH PLANS.—Subsection (a) shall not apply to
5 any governmental plan (within the meaning of sec-
6 tion 414(d)) or any church plan (within the meaning
7 of section 414(e)).

8 “(4) EXCEPTION FOR NEW AND SMALL BUSI-
9 NESSES.—

10 “(A) NEW BUSINESS.—Subsection (a)
11 shall not apply to any qualified cash or deferred
12 arrangement, or any annuity contract pur-
13 chased under a plan, while the employer main-
14 taining such plan (and any predecessor em-
15 ployer) has been in existence for less than 3
16 years.

17 “(B) SMALL BUSINESSES.—Subsection (a)
18 shall not apply to any qualified cash or deferred
19 arrangement, any annuity contract purchased
20 under a plan, earlier than the date that is 1
21 year after the close of the first taxable year
22 with respect to which the employer maintaining
23 the plan normally employed more than 10 em-
24 ployees.

1 “(C) TREATMENT OF MULTIPLE EM-
2 PLOYER PLANS.—In the case of a plan main-
3 tained by more than 1 employer, subparagraphs
4 (A) and (B) shall be applied separately with re-
5 spect to each such employer, and all such em-
6 ployers to which subsection (a) applies (after
7 the application of this paragraph) shall be
8 treated as maintaining a separate plan for pur-
9 poses of this section.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for subpart B of part I of subchapter D of chapter 1 is
12 amended by inserting after the item relating to section
13 414 the following new item:

 “Sec. 414A. Requirements related to automatic enrollment.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to plan years beginning after De-
16 cember 31, 2022.

