

117TH CONGRESS  
1ST SESSION

# S. 2583

To amend the Internal Revenue Code of 1986 to provide for rules for the use of retirement funds in connection with federally declared disasters.

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IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2021

Mr. CASSIDY (for himself and Mr. MENENDEZ) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for rules for the use of retirement funds in connection with federally declared disasters.

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. SPECIAL RULES FOR USE OF RETIREMENT**  
4 **FUNDS IN CONNECTION WITH QUALIFIED**  
5 **FEDERALLY DECLARED DISASTERS.**

6 (a) **TAX-FAVORED WITHDRAWALS FROM RETIRE-**  
7 **MENT PLANS.—**

8 (1) **IN GENERAL.—**Paragraph (2) of section  
9 72(t) of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new  
2 subparagraph:

3 “(I) DISTRIBUTIONS FROM RETIREMENT  
4 PLANS IN CONNECTION WITH FEDERALLY DE-  
5 CLARED DISASTERS.—Any qualified disaster re-  
6 covery distribution.”.

7 (2) QUALIFIED DISASTER RECOVERY DISTRIBU-  
8 TION.—Section 72(t) of such Code is amended by  
9 adding at the end the following new paragraph:

10 “(11) QUALIFIED DISASTER RECOVERY DIS-  
11 TRIBUTION.—For purposes of paragraph (2)(I)—

12 “(A) IN GENERAL.—Except as provided in  
13 subparagraph (B), the term ‘qualified disaster  
14 recovery distribution’ means any distribution  
15 made—

16 “(i) on or after the first day of the in-  
17 cident period of a qualified disaster and  
18 before the date that is 180 days after the  
19 applicable date with respect to such dis-  
20 aster, and

21 “(ii) to an individual whose principal  
22 place of abode at any time during the inci-  
23 dent period of such qualified disaster is lo-  
24 cated in the qualified disaster area with re-  
25 spect to such qualified disaster and who

1 has sustained an economic loss by reason  
2 of such qualified disaster.

3 “(B) AGGREGATE DOLLAR LIMITATION.—

4 “(i) IN GENERAL.—For purposes of  
5 this subsection, the aggregate amount of  
6 distributions received by an individual  
7 which may be treated as qualified disaster  
8 recovery distributions with respect to any  
9 qualified disaster shall not exceed the ex-  
10 cess (if any) of—

11 “(I) \$100,000, over

12 “(II) the sum of aggregate  
13 amounts treated as qualified disaster  
14 recovery distributions with respect to  
15 such qualified disaster received by  
16 such individual.

17 “(ii) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual  
18 would (without regard to clause (i)) be a  
19 qualified disaster recovery distribution, a  
20 plan shall not be treated as violating any  
21 requirement of this title merely because  
22 the plan treats such distribution as a  
23 qualified disaster recovery distribution, un-  
24 less the aggregate amount of such distribu-  
25

1 tions from all plans maintained by the em-  
2 ployer (and any member of any controlled  
3 group which includes the employer) to such  
4 individual exceeds \$100,000 with respect  
5 to the same qualified disaster.

6 “(iii) CONTROLLED GROUP.—For pur-  
7 poses of clause (ii), the term ‘controlled  
8 group’ means any group treated as a single  
9 employer under subsection (b), (c), (m), or  
10 (o) of section 414.

11 “(iv) SPECIAL RULE FOR INDIVIDUALS  
12 AFFECTED BY MORE THAN ONE DIS-  
13 ASTER.—The limitation of clause (i) shall  
14 be applied separately with respect to dis-  
15 tributions made with respect to each quali-  
16 fied disaster.

17 “(C) AMOUNT DISTRIBUTED MAY BE RE-  
18 PAID.—

19 “(i) IN GENERAL.—Any individual  
20 who receives a qualified disaster recovery  
21 distribution may, at any time during the 3-  
22 year period beginning on the day after the  
23 date on which such distribution was re-  
24 ceived, make one or more contributions in  
25 an aggregate amount not to exceed the

1 amount of such distribution to an eligible  
2 retirement plan of which such individual is  
3 a beneficiary and to which a rollover con-  
4 tribution of such distribution could be  
5 made under section 402(c), 403(a)(4),  
6 403(b)(8), 408(d)(3), or 457(e)(16), as the  
7 case may be.

8 “(ii) TREATMENT OF REPAYMENTS OF  
9 DISTRIBUTIONS FROM ELIGIBLE RETIRE-  
10 MENT PLANS OTHER THAN IRAS.—For  
11 purposes of this title, if a contribution is  
12 made pursuant to clause (i) with respect to  
13 a qualified disaster recovery distribution  
14 from a plan other than an individual re-  
15 tirement plan, then the taxpayer shall, to  
16 the extent of the amount of the contribu-  
17 tion, be treated as having received the  
18 qualified disaster recovery distribution in  
19 an eligible rollover distribution (as defined  
20 in section 402(c)(4)) and as having trans-  
21 ferred the amount to the eligible retire-  
22 ment plan in a direct trustee to trustee  
23 transfer within 60 days of the distribution.

24 “(iii) TREATMENT OF REPAYMENTS  
25 FOR DISTRIBUTIONS FROM IRAS.—For

1 purposes of this title, if a contribution is  
2 made pursuant to clause (i) with respect to  
3 a qualified disaster recovery distribution  
4 from an individual retirement plan, then,  
5 to the extent of the amount of the con-  
6 tribution, the qualified disaster recovery  
7 distribution shall be treated as a distribu-  
8 tion described in section 408(d)(3) and as  
9 having been transferred to the eligible re-  
10 tirement plan in a direct trustee to trustee  
11 transfer within 60 days of the distribution.

12 “(D) INCOME INCLUSION SPREAD OVER 3-  
13 YEAR PERIOD.—

14 “(i) IN GENERAL.—In the case of any  
15 qualified disaster recovery distribution, un-  
16 less the taxpayer elects not to have this  
17 subparagraph apply for any taxable year,  
18 any amount required to be included in  
19 gross income for such taxable year shall be  
20 so included ratably over the 3-taxable year  
21 period beginning with such taxable year.

22 “(ii) SPECIAL RULE.—For purposes of  
23 clause (i), rules similar to the rules of sub-  
24 paragraph (E) of section 408A(d)(3) shall  
25 apply.

1           “(E) QUALIFIED DISASTER.—For purposes  
2 of this paragraph and paragraph (8), the term  
3 ‘qualified disaster’ means any disaster with re-  
4 spect to which a major disaster has been de-  
5 clared by the President under section 401 of  
6 the Robert T. Stafford Disaster Relief and  
7 Emergency Assistance Act after December 31,  
8 2020.

9           “(F) OTHER DEFINITIONS.—For purposes  
10 of this paragraph and paragraph (8)—

11               “(i) QUALIFIED DISASTER AREA.—

12                       “(I) IN GENERAL.—The term  
13 ‘qualified disaster area’ means, with  
14 respect to any qualified disaster, the  
15 area with respect to which the major  
16 disaster was declared under the Rob-  
17 ert T. Stafford Disaster Relief and  
18 Emergency Assistance Act.

19                       “(II) EXCEPTIONS.—Such term  
20 shall not include any area which is a  
21 qualified disaster area solely by reason  
22 of section 301 of the Taxpayer Cer-  
23 tainty and Disaster Tax Relief Act of  
24 2020.

1           “(ii) INCIDENT PERIOD.—The term  
2           ‘incident period’ means, with respect to  
3           any qualified disaster, the period specified  
4           by the Federal Emergency Management  
5           Agency as the period during which such  
6           disaster occurred.

7           “(iii) APPLICABLE DATE.—The term  
8           ‘applicable date’ means the latest of—

9                   “(I) the date of the enactment of  
10                   this paragraph,

11                   “(II) the first day of the incident  
12                   period with respect to the qualified  
13                   disaster, or

14                   “(III) the date of the disaster  
15                   declaration with respect to the quali-  
16                   fied disaster.

17           “(iv) ELIGIBLE RETIREMENT PLAN.—  
18           The term ‘eligible retirement plan’ shall  
19           have the meaning given such term by sec-  
20           tion 402(c)(8)(B).

21           “(G) SPECIAL RULES.—

22                   “(i) EXEMPTION OF DISTRIBUTIONS  
23                   FROM TRUSTEE TO TRUSTEE TRANSFER  
24                   AND WITHHOLDING RULES.—For purposes  
25                   of sections 401(a)(31), 402(f), and 3405,

1 qualified disaster recovery distributions  
 2 shall not be treated as eligible rollover dis-  
 3 tributions.

4 “(ii) QUALIFIED DISASTER RECOVERY  
 5 DISTRIBUTIONS TREATED AS MEETING  
 6 PLAN DISTRIBUTION REQUIREMENTS.—  
 7 For purposes this title, a qualified disaster  
 8 recovery distribution shall be treated as  
 9 meeting the requirements of sections  
 10 401(k)(2)(B)(i), 403(b)(7)(A)(ii),  
 11 403(b)(11), and 457(d)(1)(A).”

12 (3) EFFECTIVE DATE.—The amendments made  
 13 by this subsection shall apply to distributions with  
 14 respect to disasters the incident beginning date (as  
 15 defined in section 72(t)(11)(F)(i) of the Internal  
 16 Revenue Code of 1986, as added by this subsection)  
 17 for which is after December 27, 2020.

18 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR  
 19 HOME PURCHASES.—

20 (1) INDIVIDUAL RETIREMENT PLANS.—Para-  
 21 graph (8) of section 72(t) of the Internal Revenue  
 22 Code of 1986 is amended by adding at the end the  
 23 following new subparagraph:

24 “(F) RECONTRIBUTIONS.—

25 “(i) GENERAL RULE.—

1           “(I) IN GENERAL.—Any indi-  
2           vidual who received a qualified dis-  
3           tribution may, during the applicable  
4           period, make one or more contribu-  
5           tions in an aggregate amount not to  
6           exceed the amount of such qualified  
7           distribution to an eligible retirement  
8           plan (as defined in section  
9           402(c)(8)(B)) of which such indi-  
10          vidual is a beneficiary and to which a  
11          rollover contribution of such distribu-  
12          tion could be made under section  
13          402(c), 403(a)(4), 403(b)(8), or  
14          408(d)(3), as the case may be.

15           “(II) TREATMENT OF REPAY-  
16          MENTS.—Rules similar to the rules of  
17          clauses (ii) and (iii) of paragraph  
18          (11)(C) shall apply for purposes of  
19          this subsection.

20           “(ii) QUALIFIED DISTRIBUTION.—For  
21          purposes of this subparagraph, the term  
22          ‘qualified distribution’ means any distribu-  
23          tion—

24                   “(I) which is a qualified first-  
25                   time homebuyer distribution,

1                   “(II) which was to be used to  
2                   purchase or construct a principal resi-  
3                   dence in a qualified disaster area, but  
4                   which was not so used on account of  
5                   the qualified disaster with respect to  
6                   such area, and

7                   “(III) which was received during  
8                   the period beginning on the date  
9                   which is 180 days before the first day  
10                  of the incident period of such qualified  
11                  disaster and ending on the date which  
12                  is 30 days after the last day of such  
13                  incident period.

14                  “(iii) APPLICABLE PERIOD.—For pur-  
15                  poses of this subparagraph, the term ‘ap-  
16                  plicable period’ means, in the case of a  
17                  principal residence in a qualified disaster  
18                  area with respect to any qualified disaster,  
19                  the period beginning on the first day of the  
20                  incident period of such qualified disaster  
21                  and ending on the date which is 180 days  
22                  after the applicable date with respect to  
23                  such disaster.”.

24                  (2) QUALIFIED PLANS.—Subsection (c) of sec-  
25                  tion 402 of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new  
2 paragraph:

3 “(12) RECONTRIBUTIONS OF WITHDRAWALS  
4 FOR HOME PURCHASES.—

5 “(A) GENERAL RULE.—

6 “(i) IN GENERAL.—Any individual  
7 who received a qualified distribution may,  
8 during the applicable period, make one or  
9 more contributions in an aggregate amount  
10 not to exceed the amount of such qualified  
11 distribution to an eligible retirement plan  
12 (as defined in paragraph (8)(B)) of which  
13 such individual is a beneficiary and to  
14 which a rollover contribution of such dis-  
15 tribution could be made under subsection  
16 (c) or section 403(a)(4), 403(b)(8), or  
17 408(d)(3), as the case may be.

18 “(ii) TREATMENT OF REPAYMENTS.—  
19 Rules similar to the rules of clauses (ii)  
20 and (iii) of section 72(t)(11)(C) shall apply  
21 for purposes of this subsection.

22 “(B) QUALIFIED DISTRIBUTION.—For  
23 purposes of this paragraph, the term ‘qualified  
24 distribution’ means any distribution—

1           “(i) described in section  
2           401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
3           only to the extent such distribution relates  
4           to financial hardship), or 403(b)(11)(B),

5           “(ii) which was to be used to purchase  
6           or construct a principal residence in a  
7           qualified disaster area, but which was not  
8           so used on account of the qualified disaster  
9           with respect to such area, and

10          “(iii) which was received during the  
11          period beginning on the date which is 180  
12          days before the first day of the incident pe-  
13          riod of such qualified disaster and ending  
14          on the date which is 30 days after the last  
15          day of such incident period.

16          “(C) DEFINITIONS.—For purposes of this  
17          paragraph—

18                 “(i) the terms ‘qualified disaster’,  
19                 ‘qualified disaster area’, and ‘incident pe-  
20                 riod’ have the meaning given such terms  
21                 under section 72(t)(11), and

22                 “(ii) the term ‘applicable period’ has  
23                 the meaning given such term under section  
24                 72(t)(8)(F).”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to distributions with  
3           respect to disasters the incident beginning date (as  
4           defined in section 72(t)(11)(F)(i) of the Internal  
5           Revenue Code of 1986, as added by subsection (a))  
6           for which is after December 27, 2020.

7           (c) LOANS FROM QUALIFIED PLANS.—

8           (1) IN GENERAL.—Subsection (p) of section 72  
9           of the Internal Revenue Code of 1986 is amended by  
10          adding at the end the following new paragraph:

11           “(6) INCREASE IN LIMIT ON LOANS NOT TREAT-  
12          ED AS DISTRIBUTIONS.—

13           “(A) IN GENERAL.—In the case of any  
14          loan from a qualified employer plan to a quali-  
15          fied individual made during the applicable pe-  
16          riod—

17           “(i) clause (i) of paragraph (2)(A)  
18          shall be applied by substituting ‘\$100,000’  
19          for ‘\$50,000’, and

20           “(ii) clause (ii) of such paragraph  
21          shall be applied by substituting ‘the  
22          present value of the nonforfeitable accrued  
23          benefit of the employee under the plan’ for  
24          ‘one-half of the present value of the non-

1           forfeitable accrued benefit of the employee  
2           under the plan’.

3           “(B) DELAY OF REPAYMENT.—In the case  
4 of a qualified individual (with respect to any  
5 qualified disaster) with an outstanding loan on  
6 or after the applicable disaster date from a  
7 qualified employer plan—

8           “(i) if the due date pursuant to sub-  
9 paragraph (B) or (C) of paragraph (2) for  
10 any repayment with respect to such loan  
11 occurs during the period beginning on the  
12 first day of the incident period of such  
13 qualified disaster and ending on the date  
14 which is 180 days after the last day of  
15 such incident period, such due date may be  
16 delayed for 1 year,

17           “(ii) any subsequent repayments with  
18 respect to any such loan may be appro-  
19 priately adjusted to reflect the delay in the  
20 due date under clause (i) and any interest  
21 accruing during such delay, and

22           “(iii) in determining the 5-year period  
23 and the term of a loan under subpara-  
24 graph (B) or (C) of paragraph (2), the pe-

1           riod described in clause (i) may be dis-  
2           regarded.

3           “(C) DEFINITIONS.—For purposes of this  
4           paragraph—

5                   “(i) QUALIFIED INDIVIDUAL.—The  
6           term ‘qualified individual’ means any indi-  
7           vidual—

8                           “(I) whose principal place of  
9                           abode at any time during the incident  
10                          period of any qualified disaster is lo-  
11                          cated in the qualified disaster area  
12                          with respect to such qualified disaster,  
13                          and

14                           “(II) who has sustained an eco-  
15                          nomic loss by reason of such qualified  
16                          disaster.

17                          “(ii) APPLICABLE PERIOD.—The ap-  
18                          plicable period with respect to any disaster  
19                          is the period—

20                           “(I) beginning on the applicable  
21                          date with respect to such disaster, and

22                           “(II) ending on the date that is  
23                          180 days after such applicable date.

24                          “(iii) OTHER TERMS.—For purposes  
25                          of this paragraph—

1           “(I) the terms ‘applicable date’,  
2           ‘qualified disaster’, ‘qualified disaster  
3           area’, and ‘incident period’ have the  
4           meaning given such terms under sub-  
5           section (t)(11), and

6           “(II) the term ‘applicable period’  
7           has the meaning given such term  
8           under subsection (t)(8).”.

9           (2) HOLD HARMLESS.—

10           (A) IN GENERAL.—A person shall not be  
11           treated as having violated the provisions of title  
12           I of the Employee Retirement Income Security  
13           Act of 1974 solely because—

14           (i) the person made a plan loan to a  
15           qualified individual (as defined in section  
16           72(p)(6) of the Internal Revenue Code of  
17           1986, as added by paragraph (1)) during  
18           the applicable period (as defined in such  
19           section 72(p)(6)) in compliance with sec-  
20           tion 72(p)(6) of such Code; or

21           (ii) a qualified individual (as so de-  
22           fined) delayed making a plan loan repay-  
23           ment in compliance with section 72(p)(6)  
24           of such Code.

1           (B) PROHIBITED TRANSACTIONS.—A per-  
2           son shall be treated as being exempt from the  
3           requirements of section 406 of the Employee  
4           Retirement Income Security Act of 1974 pursu-  
5           ant to subparagraphs (A) and (E) of section  
6           408(b)(1) of such Act if the person meets the  
7           requirements of clause (i) or (ii) of subpara-  
8           graph (A).

9           (3) EFFECTIVE DATE.—The amendment made  
10          by paragraph (1) shall apply to loans made with re-  
11          spect to disasters the incident beginning date (as de-  
12          fined in section 72(t)(11)(F)(i) of the Internal Rev-  
13          enue Code of 1986, as added by subsection (a)) for  
14          which is after December 27, 2020.

15          (d) PROVISIONS RELATING TO PLAN AMEND-  
16          MENTS.—

17               (1) IN GENERAL.—If this subsection applies to  
18               any amendment to any plan or annuity contract,  
19               such plan or contract shall be treated as being oper-  
20               ated in accordance with the terms of the plan during  
21               the period described in paragraph (2)(B)(i).

22               (2) AMENDMENTS TO WHICH SUBSECTION AP-  
23               PLIES.—

1 (A) IN GENERAL.—This subsection shall  
2 apply to any amendment to any plan or annuity  
3 contract which is made—

4 (i) pursuant to any amendment made  
5 by this section, or pursuant to any regula-  
6 tion issued by the Secretary or the Sec-  
7 retary of Labor under any amendment  
8 made by this section, and

9 (ii) on or before the last day of the  
10 second calendar year beginning after the  
11 date of the enactment of this Act, or such  
12 later date as the Secretary may prescribe.

13 In the case of a governmental plan (as defined  
14 in section 414(d)), clause (ii) shall be applied  
15 by substituting the date which is 2 years after  
16 the date otherwise applied under clause (ii).

17 (B) CONDITIONS.—This subsection shall  
18 not apply to any amendment unless—

19 (i) during the period—

20 (I) beginning on the date that  
21 the amendments made by this section,  
22 or any regulation described in sub-  
23 paragraph (A)(i), take effect (or in  
24 the case of a plan or contract amend-  
25 ment not required by amendments

1                   made by this section or such regula-  
2                   tion, the effective date specified by the  
3                   plan), and  
4                   (II) ending on the date described  
5                   in subparagraph (A)(ii) (or, if earlier,  
6                   the date the plan or contract amend-  
7                   ment is adopted),  
8           the plan or contract is operated as if such plan  
9           or contract amendment were in effect; and  
10           (ii) such plan or contract amendment  
11           applies retroactively for such period.

○