116TH CONGRESS  
1ST Session

S. ______

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

IN THE SENATE OF THE UNITED STATES

Mr. Cassidy introduced the following bill; which was read twice and referred to the Committee on ________________

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULES FOR USE OF RETIREMENT FUNDS IN CONNECTION WITH QUALIFIED FEDERALLY DECLARED DISASTERS.

(a) Tax-favored Withdrawals From Retirement Plans.—

(1) In general.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 is
amended by adding at the end the following new subparagraph:

“(I) **Distributions from retirement plans in connection with federally declared disasters.**—Any qualified disaster recovery distribution.”.

(2) **Qualified disaster recovery distribution.**—Section 72(t) of such Code is amended by adding at the end the following new paragraph:

“(11) **Qualified disaster recovery distribution.**—For purposes of paragraph (2)(I)—

“(A) **In general.**—Except as provided in subparagraph (B), the term ‘qualified disaster recovery distribution’ means any distribution made—

“(i) on or after the first day of the incident period of a qualified disaster and before the date that is 180 days after the applicable date with respect to such disaster, and

“(ii) to an individual whose principal place of abode at any time during the incident period of such qualified disaster is located in the qualified disaster area with respect to such qualified disaster and who
has sustained an economic loss by reason of such qualified disaster.

“(B) AGGREGATE DOLLAR LIMITATION.—

“(i) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified disaster recovery distributions with respect to any qualified disaster shall not exceed the excess (if any) of—

“(I) $100,000, over

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

“(ii) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to clause (i)) be a qualified disaster recovery distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified disaster recovery distribution, unless the aggregate amount of such distribu-
tions from all plans maintained by the em-
ployer (and any member of any controlled
group which includes the employer) to such
individual exceeds $100,000 with respect
to the same qualified disaster.

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

“(iv) SPECIAL RULE FOR INDIVIDUALS
AFFECTED BY MORE THAN ONE DIS-
ASTER.—The limitation of clause (i) shall
be applied separately with respect to dis-
tributions made with respect to each qual-
ified disaster.

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

“(i) IN GENERAL.—Any individual
who receives a qualified disaster recovery
distribution may, at any time during the 3-
year period beginning on the day after the
date on which such distribution was re-
ceived, make one or more contributions in
an aggregate amount not to exceed the
amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(ii) Treatment of repayments of distributions from eligible retirement plans other than IRAs.—For purposes of this title, if a contribution is made pursuant to clause (i) with respect to a qualified disaster recovery distribution from a plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified disaster recovery distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(iii) Treatment of repayments for distributions from IRAs.—For
purposes of this title, if a contribution is made pursuant to clause (i) with respect to a qualified disaster recovery distribution from an individual retirement plan, then, to the extent of the amount of the contribution, the qualified disaster recovery distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

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

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

“(ii) SPECIAL RULE.—For purposes of clause (i), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.
“(E) QUALIFIED DISASTER.—For purposes of this paragraph and paragraph (8), the term ‘qualified disaster’ means any disaster with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act after December 31, 2020.

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

“(i) QUALIFIED DISASTER AREA.—

“(I) IN GENERAL.—The term ‘qualified disaster area’ means, with respect to any qualified disaster, the area with respect to which the major disaster was declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

“(II) EXCEPTIONS.—Such term shall not include any area which is a qualified disaster area solely by reason of section 301 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020.
“(ii) INCIDENT PERIOD.—The term ‘incident period’ means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred.

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

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

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

“(III) the date of the disaster declaration with respect to the qualified disaster.

“(iv) ELIGIBLE RETIREMENT PLAN.—The term ‘eligible retirement plan’ shall have the meaning given such term by section 402(c)(8)(B).

“(G) SPECIAL RULES.—

“(i) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405,
qualified disaster recovery distributions shall not be treated as eligible rollover distributions.

“(ii) Qualified disaster recovery distributions treated as meeting plan distribution requirements.—

For purposes of this title, a qualified disaster recovery distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).”.

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

(b) Recontributions of withdrawals for home purchases.—

(1) Individual retirement plans.—Paragraph (8) of section 72(t) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(F) Recontributions.—

“(i) General rule.—
(I) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(e), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

(II) TREATMENT OF REPAYMENTS.—Rules similar to the rules of clauses (ii) and (iii) of paragraph (11)(C) shall apply for purposes of this subsection.

(ii) QUALIFIED DISTRIBUTION.—For purposes of this subparagraph, the term ‘qualified distribution’ means any distribution—

(1) which is a qualified first-time homebuyer distribution,
“(II) which was to be used to purchase or construct a principal residence in a qualified disaster area, but which was not so used on account of the qualified disaster with respect to such area, and

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

“(iii) Applicable period.—For purposes of this subparagraph, the term ‘applicable period’ means, in the case of a principal residence in a qualified disaster area with respect to any qualified disaster, the period beginning on the first day of the incident period of such qualified disaster and ending on the date which is 180 days after the applicable date with respect to such disaster.”.

(2) Qualified plans.—Subsection (c) of section 402 of the Internal Revenue Code of 1986 is
amended by adding at the end the following new paragraph:

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

“(A) GENERAL RULE.—

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

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

“(B) QUALIFIED DISTRIBUTION.—For purposes of this paragraph, the term ‘qualified distribution’ means any distribution—
“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), or 403(b)(11)(B),

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

“(iii) which was received during the period beginning on the date which is 180 days before the first day of the incident period of such qualified disaster and ending on the date which is 30 days after the last day of such incident period.

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

“(i) the terms ‘qualified disaster’, ‘qualified disaster area’, and ‘incident period’ have the meaning given such terms under section 72(t)(11), and

“(ii) the term ‘applicable period’ has the meaning given such term under section 72(t)(8)(F).”.
(3) **Effective Date.**—The amendments made by this subsection shall apply to distributions with respect to disasters the incident beginning date (as defined in section 72(t)(11)(F)(i) of the Internal Revenue Code of 1986, as added by subsection (a)) for which is after December 27, 2020.

(c) **Loans From Qualified Plans.**—

(1) **In General.**—Subsection (p) of section 72 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) **Increase in Limit on Loans Not Treated as Distributions.**—

“(A) **In General.**—In the case of any loan from a qualified employer plan to a qualified individual made during the applicable period—

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

“(ii) clause (ii) of such paragraph shall be applied by substituting ‘the present value of the nonforfeitable accrued benefit of the employee under the plan’ for ‘one-half of the present value of the non-
forfeitable accrued benefit of the employee under the plan'.

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

“(i) if the due date pursuant to subparagraph (B) or (C) of paragraph (2) for any repayment with respect to such loan occurs during the period beginning on the first day of the incident period of such qualified disaster and ending on the date which is 180 days after the last day of such incident period, such due date may be delayed for 1 year,

“(ii) any subsequent repayments with respect to any such loan may be appropriately adjusted to reflect the delay in the due date under clause (i) and any interest accruing during such delay, and

“(iii) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of paragraph (2), the pe-
period described in clause (i) may be dis-
regarded.

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

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

“(I) whose principal place of abode at any time during the incident period of any qualified disaster is lo-

cated in the qualified disaster area with respect to such qualified disaster, and

“(II) who has sustained an eco-

“(ii) APPLICABLE PERIOD.—The applicable period with respect to any disaster is the period—

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

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

“(iii) OTHER TERMS.—For purposes of this paragraph—
“(I) the terms ‘applicable date’, ‘qualified disaster’, ‘qualified disaster area’, and ‘incident period’ have the meaning given such terms under subsection (t)(11), and

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

(2) HOLD HARMLESS.—

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

(i) the person made a plan loan to a qualified individual (as defined in section 72(p)(6) of the Internal Revenue Code of 1986, as added by paragraph (1)) during the applicable period (as defined in such section 72(p)(6)) in compliance with section 72(p)(6) of such Code; or

(ii) a qualified individual (as so defined) delayed making a plan loan repayment in compliance with section 72(p)(6) of such Code.
(B) PROHIBITED TRANSACTIONS.—A person shall be treated as being exempt from the requirements of section 406 of the Employee Retirement Income Security Act of 1974 pursuant to subparagraphs (A) and (E) of section 408(b)(1) of such Act if the person meets the requirements of clause (i) or (ii) of subparagraph (A).

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

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

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

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—
(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any amendment made by this section, and

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

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

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

(i) during the period—

(I) beginning on the date that the amendments made by this section, or any regulation described in subparagraph (A)(i), take effect (or in the case of a plan or contract amendment not required by amendments
made by this section or such regulation, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.