

117TH CONGRESS
1ST SESSION

S. 1870

To amend the Internal Revenue Code of 1986 to provide for penalty-free withdrawals from retirement accounts for certain emergency expenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

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

A BILL

To amend the Internal Revenue Code of 1986 to provide for penalty-free withdrawals from retirement accounts for certain emergency expenses, 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.**

4 This Act may be cited as the “Enhancing Emergency
5 and Retirement Savings Act of 2021”.

1 **SEC. 2. WITHDRAWALS FOR CERTAIN EMERGENCY EX-**
 2 **PENSES.**

3 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
 4 the Internal Revenue Code of 1986 is amended by adding
 5 at the end the following new subparagraph:

6 “(I) DISTRIBUTIONS FOR CERTAIN EMER-
 7 GENCY EXPENSES.—

8 “(i) IN GENERAL.—Any emergency
 9 personal expense distribution.

10 “(ii) ANNUAL LIMITATION.—Not more
 11 than 1 distribution per calendar year may
 12 be treated as an emergency personal ex-
 13 pense distribution by any individual.

14 “(iii) DOLLAR LIMITATION.—The
 15 amount which may be treated as an emer-
 16 gency personal expense distribution by any
 17 individual in any calendar year shall not
 18 exceed the lesser of \$1,000 or an amount
 19 equal to the excess of—

20 “(I) the individual’s total non-
 21 forfeitable accrued benefit under the
 22 plan (the individual’s total interest in
 23 the plan in the case of an individual
 24 retirement plan), determined as of the
 25 date of each such distribution, over

26 “(II) \$1,000.

“(iv) EMERGENCY PERSONAL EXPENSE DISTRIBUTION.—For purposes of this subparagraph, the term ‘emergency personal expense distribution’ means any distribution from an applicable eligible retirement plan (as defined in subparagraph (H)(vi)(I)) to an individual for purposes of meeting unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses. The administrator of an applicable eligible retirement plan may rely on an employee’s certification that the employee satisfies the conditions of the preceding sentence in determining whether any distribution is an emergency personal expense distribution.

“(v) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to clause (iii)) be an emergency personal expense distribution, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as an emergency personal expense distribution, unless the aggregate amount of such dis-

1 tributions from all plans maintained by the
 2 employer (and any member of any con-
 3 trolled group which includes the employer,
 4 determined as provided in subparagraph
 5 (H)(iv)(II)) to such individual exceeds the
 6 limitation determined under clause (iii).

7 “(vi) AMOUNT DISTRIBUTED MAY BE
 8 REPAID.—

9 “(I) IN GENERAL.—Any indi-
 10 vidual who receives an emergency per-
 11 sonal expense distribution may, at any
 12 time during the 3-year period begin-
 13 ning on the day after the date on
 14 which such distribution was received,
 15 make one or more contributions in an
 16 aggregate amount not to exceed the
 17 amount of such distribution to an ap-
 18 plicable eligible retirement plan of
 19 which such individual is a beneficiary
 20 and to which a rollover contribution of
 21 such distribution could be made under
 22 section 402(c), 403(a)(4), 403(b)(8),
 23 408(d)(3), or 457(e)(16), as the case
 24 may be.

1 “(II) LIMITATION ON CONTRIBU-
2 TIONS TO APPLICABLE ELIGIBLE RE-
3 TIREMENT PLANS OTHER THAN
4 IRAS.—The aggregate amount of con-
5 tributions made by an individual
6 under subclause (I) to any applicable
7 eligible retirement plan which is not
8 an individual retirement plan shall not
9 exceed the aggregate amount of emer-
10 gency personal expense distributions
11 which are made from such plan to
12 such individual. Subclause (I) shall
13 not apply to contributions to any ap-
14 plicable eligible retirement plan which
15 is not an individual retirement plan
16 unless the individual is eligible to
17 make contributions (other than those
18 described in subclause (I)) to such ap-
19 plicable eligible retirement plan.

20 “(III) TREATMENT OF REPAY-
21 MENTS OF DISTRIBUTIONS FROM AP-
22 PLICABLE ELIGIBLE RETIREMENT
23 PLANS OTHER THAN IRAS.—If a con-
24 tribution is made under subclause (I)
25 with respect to an emergency personal

1 expense distribution from an applica-
2 ble eligible retirement plan other than
3 an individual retirement plan, then
4 the taxpayer shall, to the extent of the
5 amount of the contribution, be treated
6 as having received such distribution in
7 an eligible rollover distribution (as de-
8 fined in section 402(c)(4)) and as
9 having transferred the amount to the
10 applicable eligible retirement plan in a
11 direct trustee to trustee transfer with-
12 in 60 days of the distribution.

13 “(IV) TREATMENT OF REPAY-
14 MENTS FOR DISTRIBUTIONS FROM
15 IRAS.—If a contribution is made
16 under subclause (I) with respect to an
17 emergency personal expense distribu-
18 tion from an individual retirement
19 plan, then, to the extent of the
20 amount of the contribution, such dis-
21 tribution shall be treated as a dis-
22 tribution described in section
23 408(d)(3) and as having been trans-
24 ferred to the applicable eligible retire-
25 ment plan in a direct trustee to trust-

1 ee transfer within 60 days of the dis-
2 tribution.

3 “(vii) LIMITATION ON SUBSEQUENT
4 DISTRIBUTIONS.—If a distribution is treat-
5 ed as an emergency personal expense dis-
6 tribution in any calendar year with respect
7 to a plan, no amount may be treated as
8 such a distribution in any subsequent cal-
9 endar year with respect to such plan un-
10 less—

11 “(I) such previous distribution is
12 fully repaid pursuant to clause (vi) to
13 such plan, or

14 “(II) the aggregate of the elective
15 deferrals and employee contributions
16 to the plan (the total amounts con-
17 tributed to the plan in the case of an
18 individual retirement plan) subsequent
19 to such previous distribution is at
20 least equal to the amount of such pre-
21 vious distribution which has not been
22 so repaid.

23 “(viii) SPECIAL RULES.—Rules simi-
24 lar to the rules of subclauses (II) and (IV)

1 of subparagraph (H)(vi) shall apply to any
2 emergency personal expense distribution.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions made after Decem-
5 ber 31, 2021.

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