

116TH CONGRESS  
1ST SESSION

# S. 204

To amend the Internal Revenue Code of 1986 to waive certain penalties for affected Federal employees receiving a distribution from the Thrift Savings Plan during a lapse in appropriations, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2019

Mr. KAINE (for himself, Ms. COLLINS, Mr. WYDEN, Mrs. MURRAY, Mr. JONES, Mr. BENNET, Ms. CORTEZ MASTO, Ms. STABENOW, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Mr. CARPER, Ms. WARREN, Ms. DUCKWORTH, Mr. COONS, Mr. SANDERS, Mr. WARNER, Ms. HASSAN, Mr. MENENDEZ, Mr. BROWN, Mrs. SHAHEEN, Ms. HIRONO, Mr. BOOKER, Mr. DURBIN, Ms. SMITH, Mr. HEINRICH, Mr. SCHATZ, Ms. KLOBUCHAR, Mr. PORTMAN, Mr. UDALL, Mr. MANCHIN, and Mrs. FEINSTEIN) 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 waive certain penalties for affected Federal employees receiving a distribution from the Thrift Savings Plan during a lapse in appropriations, 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 “Emergency Relief for  
5 Federal Workers Act of 2019”.

1 **SEC. 2. WAIVER OF 10-PERCENT ADDITIONAL TAX ON CER-**  
2 **TAIN FINANCIAL HARDSHIP DISTRIBUTIONS**  
3 **FROM THRIFT SAVINGS PLAN.**

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

7 “(H) DISTRIBUTIONS TO FEDERAL EM-  
8 PLOYEES AFFECTED BY A QUALIFIED LAPSE IN  
9 APPROPRIATIONS.—

10 “(i) IN GENERAL.—Distributions  
11 made from the Thrift Savings Plan under  
12 subchapter III of chapter 84 of title 5,  
13 United States Code, upon financial hard-  
14 ship of an individual who is a Federal em-  
15 ployee and who is on furlough or who is  
16 working without pay due to a qualified  
17 lapse in appropriations, if such distribu-  
18 tions are made during the period of such  
19 qualified lapse in appropriations (including  
20 distributions which are in process as of the  
21 end of such lapse).

22 “(ii) LIMITATION.—Subclause (i) shall  
23 apply to any distributions only to the ex-  
24 tent the aggregate of such distributions  
25 does not exceed \$30,000 with respect to  
26 any qualified lapse in appropriations.

1                   “(iii) QUALIFIED LAPSE IN APPRO-  
2                   PRIATIONS.—For purposes of this subpara-  
3                   graph, the term ‘qualified lapse in appro-  
4                   priations’ means a period of continuous  
5                   lapse in Federal appropriations (including  
6                   a partial lapse) of at least 2 weeks.

7                   “(iv) OTHER TERMS.—For purposes  
8                   of this subparagraph, the terms ‘furlough’  
9                   and ‘pay’ have the respective meanings  
10                  given such terms by section 7511 of title  
11                  5, United States Code.”.

12               (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to distributions made after Decem-  
14 ber 21, 2018.

15 **SEC. 3. THRIFT SAVINGS PLAN PROVISIONS.**

16               (a) IN-SERVICE WITHDRAWALS.—Section 8433(h) of  
17 title 5, United States Code, is amended by adding at the  
18 end the following:

19               “(6)(A) In this paragraph—

20                   “(i) the term ‘applicable date’, with respect to  
21                   a covered age-based withdrawal or covered hardship  
22                   withdrawal made during a qualified lapse in appro-  
23                   priations, means the date that is 120 days after the  
24                   last day of the qualified lapse in appropriations;

1           “(ii) the term ‘covered age-based withdrawal’  
2 means a withdrawal under paragraph (1)(A) made  
3 during the period of a qualified lapse in appropria-  
4 tions;

5           “(iii) the term ‘covered hardship withdrawal’  
6 means a withdrawal described in subparagraph (B);  
7 and

8           “(iv) the term ‘qualified lapse in appropriations’  
9 has the meaning given the term in section  
10 72(t)(2)(H)(iii) of the Internal Revenue Code of  
11 1986.

12          “(B) The Board shall permit an employee whose pay  
13 has been suspended due to a qualified lapse in appropria-  
14 tions to make a withdrawal based upon financial hardship  
15 under paragraph (1)(B) if—

16           “(i) the withdrawal is made during the period  
17 of such qualified lapse in appropriations (including  
18 withdrawals which are in process as of the end of  
19 such lapse); and

20           “(ii) the aggregate amount of any such with-  
21 drawals during the period described in clause (i)  
22 does not exceed \$30,000.

23          “(C) The Board may not limit the number of covered  
24 hardship withdrawals that an employee may make during

1 the period of a qualified lapse in appropriations, subject  
2 to the dollar limitation under subparagraph (B)(ii).

3 “(D) A covered hardship withdrawal made by an em-  
4 ployee shall not affect the ability of the employee to con-  
5 tribute to the Thrift Savings Fund on and after the date  
6 on which the applicable qualified lapse in appropriations  
7 ends.

8 “(E)(i) An individual who makes 1 or more covered  
9 age-based withdrawals during the period of a qualified  
10 lapse in appropriations may, before the applicable date,  
11 contribute to the Thrift Savings Fund an amount not to  
12 exceed the lower of—

13 “(I) the aggregate amount of the withdrawals;

14 or

15 “(II) \$30,000.

16 “(ii) An individual who makes 1 or more covered  
17 hardship withdrawals during the period of a qualified  
18 lapse in appropriations may, before the applicable date,  
19 contribute to the Thrift Savings Fund an amount not to  
20 exceed the aggregate amount of the withdrawals.

21 “(iii) The dollar limitations otherwise applicable to  
22 employee contributions under this title or the Internal  
23 Revenue Code of 1986 shall not apply to any contribution  
24 made under this subparagraph. Any such contribution

1 shall be disregarded for purposes of section 8432(d) of  
2 this title and section 415(c)(2) of such Code.”.

3 (b) LOANS.—Section 8433(g) of title 5, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(5) The Board shall prescribe rules providing for the  
7 secure distribution of the proceeds of a loan under this  
8 subsection through an electronic funds transfer, if such  
9 a transfer is requested by the employee or Member receiv-  
10 ing the loan.

11 “(6) The Board shall prescribe rules allowing loans  
12 to be made under this subsection to employees during a  
13 lapse in appropriations, without regard to the period of  
14 the lapse in appropriations.

15 “(7)(A) In this paragraph—

16 “(i) the term ‘payment missed because of a  
17 shutdown’ means a payment—

18 “(I) on a loan under this subsection made  
19 to an employee whose pay has been suspended  
20 due to a qualified lapse in appropriations;

21 “(II) that is due during the qualified lapse  
22 in appropriations; and

23 “(III) that was not paid by the employee;  
24 and

1           “(ii) the term ‘qualified lapse in appropriations’  
2           has the meaning given the term in section  
3           72(t)(2)(H)(iii) of the Internal Revenue Code of  
4           1986.

5           “(B) The Board shall prescribe rules providing that  
6           the full amount due for any payments missed because of  
7           a shutdown by an employee shall be deducted and withheld  
8           from the pay provided to the employee for the period of  
9           the qualified lapse in appropriations.”.

10 **SEC. 4. MISSED LOAN PAYMENTS NOT TO BE TREATED AS**  
11 **TAXABLE DISTRIBUTION DURING A QUALI-**  
12 **FIED LAPSE IN APPROPRIATIONS.**

13           (a) IN GENERAL.—Paragraph (2) of section 72(p) of  
14           the Internal Revenue Code of 1986 is amended by adding  
15           at the end the following new subparagraph:

16                   “(E) SPECIAL RULE FOR MISSED LOAN RE-  
17                   PAYMENT DURING A QUALIFIED LAPSE IN AP-  
18                   PROPRIATIONS.—Subparagraph (A) shall not  
19                   fail to apply to any loan from the Thrift Sav-  
20                   ings Plan under subchapter III of chapter 84 of  
21                   title 5, United States Code, solely because there  
22                   is a payment missed because of a shutdown (as  
23                   defined in section 8433(g)(7)(A) of title 5,  
24                   United States Code) with respect to such loan,  
25                   and such loan (or any portion of such loan)

1           shall not be treated as a taxable distribution  
2           solely because of such missed payment.”.

3       (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to missed loan payments the due  
5 date for which is after December 21, 2018.

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