To allow employers to offer pension-linked emergency savings accounts for financial emergencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To allow employers to offer pension-linked emergency savings accounts for financial emergencies, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Emergency Savings Act of 2022”.

SEC. 2. EMERGENCY SAVINGS ACCOUNTS LINKED TO DEFINED CONTRIBUTION PLANS.

(a) EMPLOYEE PENSION BENEFIT PLANS.—Section 3 of the Employee Retirement Income Security Act (29 U.S.C. 1002) is amended—
(1) in paragraph (2)(A), by inserting after the first sentence the following: “A pension plan may include a pension-linked emergency savings account.”

and

(2) by adding at the end the following:

“(45) PENSION-LINKED EMERGENCY SAVINGS ACCOUNT.—The term ‘pension-linked emergency savings account’ means an account established or maintained by a sponsor of a defined contribution plan for purposes of offering or providing a participant of such plan the opportunity to maintain a short-term savings account that—

“(A) is offered as part of such defined contribution plan;

“(B) accepts only—

“(i) participant contributions which are treated in the same manner as Roth contributions for purposes of inclusion in gross income; and

“(ii) employer contributions which are includible in gross income of the participant for purposes of the Internal Revenue Code of 1986; and

“(C) meets the requirements of part 8 of subtitle B.”.”
(b) **Pension-linked Emergency Savings Accounts.**—

(1) **In General.**—Subtitle B of title I of the Employee Retirement Income Security Act (29 U.S.C. 1021 et seq.) is amended by adding at the end the following:

**“PART 8—PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS**

**“SEC. 801. PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS.**

“(a) **In General.**—A plan sponsor of a defined contribution plan may make available to participants of such pension plan a pension-linked emergency savings account. A plan sponsor that offers participants a pension-linked emergency savings account may deduct amounts from each participating employee’s compensation in accordance with subsection (c) and deposit such amounts, and any employer contributions under such subsection, to an account that meets the requirements of subsection (b).

“(b) **Account Requirements.**—

“(1) **In General.**—A pension-linked emergency savings account offered in accordance with subsection (a) shall—

“(A) not have a minimum account balance requirement;
“(B) allow for withdrawal by the participant of the account balance, in whole or in part at the discretion of the participant, at least once per calendar month and for distribution of such withdrawal to the participant as soon as practicable but, other than in exceptional circumstances, not later than 1 week from the date on which the participant elects to make such withdrawal;

“(C) be held as cash, in an interest-bearing deposit account, or in an investment or insurance product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity; and

“(D) not be subject to—

“(i) any unreasonable fees, restrictions, expenses, or charges in connection with such pension-linked emergency savings account; and

“(ii) any fees in connection with the withdrawal of funds from such pension-linked emergency savings account other than reasonable reimbursement fees imposed for paper mailings and the handling
of paper checks related to such pension-linked emergency savings account.

“(2) Establishment and termination of account.—

“(A) Establishment of account.—The establishment of a pension-linked emergency savings account shall be included in the defined contribution plan document of the associated defined contribution plan.

“(B) Termination of account.—A plan sponsor may terminate the pension-linked emergency savings account feature of an associated defined contribution plan at any time. Such termination shall be treated as if a termination of employment had occurred in accordance with subsection (d), except the reasonable time described in such subsection shall be as soon as practicable not later than 60 days after the date of such termination of the pension-linked emergency savings account feature of such associated defined contribution plan.

“(c) Account contributions.—

“(1) Employer contributions.—

“(A) In general.—Subject to the maximum account balance under paragraph (3), a
plan sponsor may, without regard to any election otherwise by a participant, deposit to the pension-linked emergency savings account of the participant an amount in addition to the amount contributed by the participant under paragraph (2).

“(B) EMPLOYER CONTRIBUTIONS.—Employer contributions shall be included in the gross income of a participant for purposes of the Internal Revenue Code of 1986.

“(2) PARTICIPANT CONTRIBUTIONS.—

“(A) IN GENERAL.—Subject to the maximum account balance under paragraph (3)—

“(i) a plan sponsor may automatically enroll a participant in the pension-linked emergency savings account at a participant contribution rate selected by the plan sponsor, which, unless the participant affirmatively elects a different percentage of the compensation of the participant to be contributed to the pension-linked emergency savings account, may not exceed 3 percent of the compensation of the participant; or

“(ii) a participant may enroll in the pension-linked emergency savings account
at a participant contribution rate selected
by the participant.

“(B) CONTROL OF TRANSFER.—A partici-

pant, at any time (subject to such reasonable
advance notice as is required by the plan ad-
ministrator), may—

“(i) adjust the participant contribu-
tion rate under subparagraph (A) to the
pension-linked emergency savings account
of the participant; or

“(ii) opt out of or pause for a speci-
fied period of time such contributions.

“(C) ADJUSTMENT OF PARTICIPANT CON-
TRIBUTION RATE BY PLAN SPONSOR.—A plan
sponsor may adjust the participant contribution
rate selected by such plan sponsor described in
subparagraph (A)(i) not more than once annu-
ally.

“(3) ACCOUNT LIMITS.—

“(A) IN GENERAL.—Subject to subpara-
graph (B), no contributions under paragraphs
(1) and (2) shall be accepted to the extent such
contributions would cause the balance of the
pension-linked emergency savings account to ex-
ceed the lesser of—
“(i) $2,500; or

“(ii) an amount determined by the plan sponsor of the pension-linked emergency savings account.

In the case of contributions made in taxable years beginning after December 1, 2023, the Secretary shall adjust the amount under clause (i) at the same time and in the same manner as the adjustment made by the Secretary of the Treasury under section 415(d) of the Internal Revenue Code of 1986, except that the base period shall be the calendar quarter beginning July 1, 2022. Any increase under the preceding sentence which is not a multiple of $100 shall be rounded to the next lowest multiple of $100.

“(B) EXCESS CONTRIBUTIONS DIRECTED TO PLAN.—To the extent any elected contributions under paragraphs (1) and (2) to the pension-linked emergency savings account of a participant for a taxable year would cause the balance of the pension-linked emergency savings account to exceed the maximum account balance described in subparagraph (A)—

“(i) the participant may be treated as having elected to increase the participant’s
contributions to the associated defined contribution plan by an amount not more than the rate at which contributions were being made to the pension-linked emergency savings account, and

“(ii) any such contributions shall be treated as elective deferrals (as such term is defined in section 402(g)(3) of the Internal Revenue Code of 1986) under such plan and shall be contributed to the plan on behalf of the participant instead of to the pension-linked emergency savings account.

“(4) Disclosure by plan sponsor of transfer.—

“(A) In general.—Not less than 15 days prior to the date on which the first transfer under this subsection occurs, the percentage of compensation and amount of the participant’s compensation transferred under paragraph (1) is adjusted, or the plan sponsor adjusts the percentage of compensation of the automatic participant contribution under paragraph (2)(A)(i), the plan sponsor shall provide to the participant notice of—
“(i) the purpose of the account being for short-term, emergency savings;

“(ii) the amount of the intended contribution or the change in the percentage of the compensation of the participant of such contribution;

“(iii) in accordance with paragraph (2)(B), the instructions on how to—

“(I) adjust the participant contribution rate under paragraph (2)(A) to the pension-linked emergency savings account of the participant; or

“(II) opt out of or pause for a specified period of time such contributions;

“(iv) how such contributions will be invested;

“(v) the limits on, and tax treatment of, such contributions;

“(vi) any fees, expenses, or charges associated with such pension-linked emergency savings account;

“(vii) procedures for participant withdrawals from such pension-linked emer-
gency savings account, including any limits on frequency.

“(B) CONSOLIDATED NOTICES.—The required notices under subparagraph (A) may be included with any other notice under this Act, including under section 404(e)(5)(B) or 514(e)(3), or under section 401(k)(13)(E) or 414(w)(4) of the Internal Revenue Code of 1986, if such other notice is provided to the participant not less than 15 days prior to the date described in such subparagraph and not more than 60 days prior to the date on which the first transfer under this subsection occurs.

“(5) EMPLOYER MATCHING CONTRIBUTIONS TO A DEFINED CONTRIBUTION PLAN FOR EMPLOYEE CONTRIBUTIONS TO A PENSION-LINKED EMERGENCY SAVINGS ACCOUNT.—

“(A) IN GENERAL.—If an employer makes any matching contributions to a defined contribution plan of which a pension-linked emergency savings account is part—

“(i) any contribution under paragraph (2) to a pension-linked emergency savings account of the participant shall be treated as an elective deferral for purposes of
matching contributions by such employer to such defined contribution plan; and

“(ii) such employer shall make matching contributions on behalf of such participant to the associated defined contribution plan on account of such contributions under paragraph (2) at the same rate as any other matching contribution on account of an elective deferral by such participant.

To the extent any such matching contribution exceeds the maximum account balance under paragraph (3)(A), such contributions shall be contributed to the plan as provided in paragraph (3)(B).

“(B) DEFINITIONS.—For purposes of subparagraph (A), the terms ‘matching contribution’ and ‘elective deferral’ shall have the meanings given such terms in section 401(m)(4) of the Internal Revenue Code of 1986.

“(d) ACCOUNT BALANCE AFTER TERMINATION OF EMPLOYMENT.—Upon termination of employment of the participant, the pension-linked emergency savings account of such participant shall—
“(1) allow, as relevant, for transfer by the participant of the account balance of such account, in whole or in part, into the designated Roth account (within the meaning of section 402A of the Internal Revenue Code of 1986) of the participant under the associated defined contribution plan; and

“(2) for any amounts in such account not transferred under paragraph (1), make such amounts available within a reasonable time not later than the earlier of the date on which the employer contributing to the plan makes the final compensation payment related to such employment or 60 days after the date of such termination—

“(A) to the participant or the beneficiary;

or

“(B) as a direct rollover to a Roth IRA (as defined in section 408A(b) of the Internal Revenue Code of 1986) of such participant.

“(e) COORDINATION WITH PLAN HARDSHIP RULES.—Under the terms of the plan of which a pension-linked emergency savings account is a part, a participant shall be required to withdraw all amounts in a pension-linked emergency savings account of the participant before receiving any plan distribution which is based on financial hardship or any loan from the plan.
“SEC. 802. ANNUAL NOTICE FOR PENSION-LINKED EMERGENCY SAVINGS ACCOUNT.

“(a) In General.—At least annually, the plan sponsor of a pension-linked emergency savings account shall provide to the pension-linked emergency savings account participant a notice containing such information as the Secretary may require, including a description of—

“(1) the purpose and tax treatment of the pension-linked emergency savings account and contributions;

“(2) procedures for opting out of the pension-linked emergency savings account, changing participant contribution rates for such account, and making withdrawals from such account, and limits on contributions and withdrawals;

“(3) designated investment options for amounts contributed to the pension-linked emergency savings account;

“(4) the options under section 801(d) for the account balance of the pension-linked emergency savings account after termination of the employment of the participant;

“(5) any fees, expenses, or charges associated with such pension-linked emergency savings account; and
“(6) the amount that a participant has contributed to the pension-linked emergency savings account and the amount the plan sponsor has contributed to such pension-linked emergency savings account for the plan year, and the account balance.

“(b) CONSOLIDATED NOTICES.—The required notice under subparagraph (A) may be included with any other notice under this Act if such other notice is provided to the participant at least annually.

“SEC. 803. PREEMPTION OF STATE ANTI-GARNISHMENT LAWS.

“Notwithstanding any other provision of law, this part shall supersede any law of a State which would directly or indirectly prohibit or restrict the use of an automatic contribution arrangement, in accordance with section 801(e)(2), for a pension-linked emergency savings account. The Secretary may promulgate regulations to establish minimum standards that such an arrangement would be required to satisfy in order for this subsection to apply with respect to such an account.

“SEC. 804. REPORTING AND DISCLOSURE REQUIREMENTS.

“The Secretary shall prescribe such regulations as may be necessary to address reporting and disclosure requirements for pension-linked emergency savings accounts in order to prevent unnecessary reporting and disclosure
for such accounts under this Act, including for purposes of any reporting or disclosure related to pension plans required by this title or title IV or under the Internal Revenue Code of 1986.

``SEC. 805. REPORT TO CONGRESS ON MAXIMUM ACCOUNT BALANCE LIMITS.

“The Secretary of Labor and the Secretary of the Treasury shall—

“(1) conduct a study on the use of emergency savings from a pension-linked emergency savings account regarding—

“(A) whether the maximum account balance under section 801(c)(3) is sufficient;

“(B) whether the limitation on contributions under sections 801(c)(2)(A)(i) are appropriate; and

“(C) the participation rate of such accounts by plan sponsors and participants and the resulting impact on participant retirement savings, including the impact on retirement savings leakage and the effect of such accounts on retirement plan participation by low- and moderate-income households; and

“(2) not later than 7 years after the date of enactment of the Emergency Savings Act of 2022, sub-
mit to Congress a report on the findings of the study under paragraph (1).”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 734 the following new items:

“PART 8. PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS

“801. Pension-linked emergency savings accounts.
“802. Annual notice for pension-linked emergency savings account.
“804. Reporting and disclosure requirements.
“805. Report to Congress on maximum account balance limits.”.

(e) REPORTING FOR A PENSION-LINKED EMERGENCY SAVINGS ACCOUNT.—

(1) ALTERNATIVE METHODS OF COMPLIANCE.—Section 110(a) of the Employee Retirement Income Security Act (29 U.S.C. 1030(a)) is amended by inserting “(including pension-linked emergency savings accounts offered in conjunction with a pension plan)” after “class of pension plans”.

(2) MINIMIZED REPORTING BURDEN FOR PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS.—

Section 101 of such Act (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (n) as subsection (o); and
(B) by inserting after subsection (m) the following:

“(n) PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS.—

“(1) IN GENERAL.—The requirements of subsection (a) shall not apply to a pension-linked emergency savings account made available under section 801.

“(2) SIMPLIFIED REPORTING.—Nothing in this subsection shall preclude the Secretary from providing, by regulations or otherwise, simplified reporting procedures or requirements for such a pension-linked emergency savings account.”.

(d) FIDUCIARY DUTY.—Section 404(e) of the Employee Retirement Income Security Act (29 U.S.C. 1104(e)) is amended by adding at the end the following:

“(6) DEFAULT INVESTMENT ARRANGEMENTS FOR A PENSION-LINKED EMERGENCY SAVINGS ACCOUNT.—For purposes of paragraph (1), a participant in a pension-linked emergency savings account shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which are invested in accordance with section 801(b)(1)(C).”.
(e) Tax Treatment of Pension-linked Emergency Savings Accounts.—

(1) In General.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 409A the following new section:

“SEC. 409B. PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS.

“(a) In General.—Any pension-linked emergency savings account established pursuant to section 801 of the Employee Retirement Income Security Act of 1974 shall be treated for purposes of this title as provided in this section.

“(b) Treatment as After-tax Contributions.—Any contribution to a pension-linked emergency savings account shall be—

“(1) an employee contribution, or

“(2) if made by an employer, shall be includible in gross income of the employee.

“(c) Plan Qualifications.—Any plan of which a pension-linked emergency savings account is a part shall not be treated as failing to meet any requirement of this chapter solely by reason of including such account, or solely by reason of allowing distributions from such account
in a manner consistent with section 801(b)(1)(B) of the

“(d) COORDINATION WITH PLAN.—

“(1) IN GENERAL.—No distribution of amounts
from a pension-linked emergency savings account
shall be contributed or rolled over to any eligible re-
tirement plan (as defined in section 402(e)(8)(B))
except as provided in paragraph (2).

“(2) ROLLOVER ON TERMINATION OF EMPLOY-
MENT.—Upon termination of employment of the
participant with the employer sponsoring the plan of
which a pension-linked emergency savings account is
part, the account balance of such account may be
contributed to—

“(A) a designated Roth account (within
the meaning of section 402A) of the partici-

“(B) a Roth IRA of the participant,
in accordance with section 801(d) of the Employee
Retirement Income Security Act of 1974. Such con-
tribution shall be treated in the same manner as a
rollover contribution to which section 402A(c)(4) ap-
plies or as a qualified rollover contribution within
the meaning of section 408A(e), whichever is appli-
cable, except that subparagraph (F) of section
408A(d)(3) shall not apply to such contribution (including by reason of section 402A(e)(4)(D)).

“(e) COORDINATION WITH NONDISCRIMINATION REQUIREMENTS AND CONTRIBUTION LIMITATIONS.—For purposes of paragraphs (4) and (30) of section 401(a), paragraphs (3), (12), and (13) of section 401(k), section 401(m), section 403(b)(1)(E), and section 415, contributions to a pension-linked emergency savings account—

“(1) shall be treated as elective deferrals, and

“(2) shall be aggregated with contributions to the plan of which such account is a part.

“(f) HARDSHIP RULES.—A plan of which a pension-linked emergency savings account is a part shall not be treated as failing to meet any requirement of this chapter solely because under the terms of the plan a participant is required to withdraw all amounts in a pension-linked emergency savings account of the participant before receiving any distribution which is based on financial hardship or any loan from the plan.

“(g) EXEMPTION FROM ADDITIONAL TAX ON EARLY DISTRIBUTIONS.—A pension-linked emergency savings account shall not be treated as a qualified retirement plan for purposes of section 72(t).

“(h) TREATMENT OF EARNINGS.—Any earnings on contributions to a pension-linked emergency savings ac-
count shall not be included in gross income, and distribu-
tions from such account shall not be subject to with-
holding.”.

(2) Basis recovery.—Section 72(d) of such
Code is amended by adding at the end the following
new paragraph:

“(3) Treatment of contributions to a
pension-linked emergency savings account.—
For purposes of this section, contributions to a pen-
sion-linked emergency savings account to which sec-
tion 409B applies (and any income allocable thereto)
may be treated as a separate contract.”.

(3) Clerical amendment.—The table of sec-
tions for subpart A of part I of subchapter D of
chapter 1 of such Code is amended by inserting
after the item relating to section 409A the following
new item:

“Sec. 409B. Pension-linked emergency savings accounts.”.

(f) Joint regulatory authority.—The Secretary
of Labor and the Secretary of the Treasury (or a delegate
of either such Secretary) shall have authority to issue joint
regulations or other guidance, or to coordinate in devel-
oping regulations or other guidance, to carry out the pur-
poses of this Act, including adjustment of the maximum
benefit under section 801(c)(3) of the Employee Retire-
ment Income Security Act, as added by this Act, to ac-
count for inflation, as well as expansion of corrections pro-
grams, if necessary.