To provide with respect to recent disasters an employee retention credit for employers affected by such disasters and rules for disaster-related personal casualty losses.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2020

Ms. FINKENAUER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide with respect to recent disasters an employee retention credit for employers affected by such disasters and rules for disaster-related personal casualty losses.

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 “Disaster Recovery for Economies, Local Individuals, Employers, and Families Act of 2020” or the “Disaster RELIEF Act”.

SEC. 2. DEFINITIONS.

For purposes of this Act—
(1) QUALIFIED DISASTER AREA.—

(A) IN GENERAL.—The term “qualified disaster area” means any area with respect to which a major disaster was declared, during the period beginning on December 28, 2019, and ending on the date which is 60 days after the date of the enactment of this Act, by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act if the incident period of the disaster with respect to which such declaration is made begins on or before the date of the enactment of this Act.

(B) COVID-19 EXCEPTION.—Such term shall not include any area with respect to which such a major disaster has been so declared only by reason of COVID-19.

(2) QUALIFIED DISASTER ZONE.—The term “qualified disaster zone” means that portion of any qualified disaster area which was determined by the President, during the period beginning on December 28, 2019, and ending on the date which is 60 days after the date of the enactment of this Act, to warrant individual or individual and public assistance from the Federal Government under the Robert T.
Stafford Disaster Relief and Emergency Assistance Act by reason of the qualified disaster with respect to such disaster area.

(3) QUALIFIED DISASTER.—The term “qualified disaster” means, with respect to any qualified disaster area, the disaster by reason of which a major disaster was declared with respect to such area.

(4) 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 (except that for purposes of this Act such period shall not be treated as beginning before December 28, 2019, or ending after the date which is 30 days after the date of the enactment of this Act).

SEC. 3. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY QUALIFIED DISASTERS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the 2020 qualified disaster employee retention credit shall be treated as a credit listed at the end of subsection (b) of such section. For purposes of this subsection, the 2020 qualified disaster employee retention
credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. The amount of qualified wages with respect to any employee which may be taken into account under this subsection by the employer for any taxable year shall not exceed $6,000 (reduced by the amount of qualified wages with respect to such employee which may be so taken into account for any prior taxable year).

(b) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYER.—The term “eligible employer” means any employer—

(A) which conducted an active trade or business in a qualified disaster zone at any time during the incident period of the qualified disaster with respect to such qualified disaster zone, and

(B) with respect to whom the trade or business described in subparagraph (A) is inoperable at any time during the period beginning on the first day of the incident period of such qualified disaster and ending on the date of the enactment of this Act, as a result of damage sustained by reason of such qualified disaster.
(2) **Eligible Employee.**—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment with such eligible employer (determined immediately before the qualified disaster referred to in paragraph (1)) was in the qualified disaster zone referred to in such paragraph.

(3) **Qualified Wages.**—The term “qualified wages” means wages (as defined in section 51(c)(1) of the Internal Revenue Code of 1986, but without regard to section 3306(b)(2)(B) of such Code) paid or incurred by an eligible employer with respect to an eligible employee at any time on or after the date on which the trade or business described in paragraph (1) first became inoperable at the principal place of employment of the employee (determined immediately before the qualified disaster referred to in such paragraph) and before the earlier of—

(A) the date on which such trade or business has resumed significant operations at such principal place of employment, or

(B) the date which 150 days after the last day of the incident period of the qualified disaster referred to in paragraph (1).
Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed. Such term shall not include any wages taken into account under section 2301 of the Coronavirus Aid, Relief, and Economic Security Act.

(c) **Special Rules.**—

(1) **Employee not taken into account more than once.**—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 of the Internal Revenue Code of 1986 with respect to such employee for such period.

(2) **Denial of double benefit.**—Any wages taken into account in determining the credit allowed under this section shall not be taken into account as wages for purposes of sections 41, 45A, 45P, 45S, 51, and 1396 of the Internal Revenue Code of 1986.

(3) **Certain other rules to apply.**—For purposes of this subsection, rules similar to the rules
of sections 51(i)(1), 52, and 280C(a), of the Internal Revenue Code of 1986, shall apply.

(d) ELECTION TO NOT TAKE CERTAIN WAGES INTO ACCOUNT.—

(1) IN GENERAL.—This section shall not apply to qualified wages paid by an eligible employer with respect to which such employer makes an election (at such time and in such manner as the Secretary may prescribe) to have this section not apply to such wages.

(2) COORDINATION WITH PAYCHECK PROTECTION PROGRAM.—The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue guidance providing that payroll costs paid or incurred during the covered period shall not fail to be treated as qualified wages under this section by reason of an election under paragraph (1) to the extent that a covered loan of the eligible employer is not forgiven by reason of a decision under section 1106(g) of the CARES Act. Terms used in the preceding sentence which are also used in section 1106 of such Act shall have the same meaning as when used in such section.

(e) AMENDMENT TO PAYCHECK PROTECTION PROGRAM.—Section 1106(a)(8) of the CARES Act is amended
by inserting “,” except that such costs shall not include
qualified wages taken into account in determining the
credit allowed under section 4 of the Disaster RELIEF
Act” before the period at the end.

SEC. 4. SPECIAL RULES FOR QUALIFIED DISASTER-RE-
LATED PERSONAL CASUALTY LOSSES.

(a) In general.—If an individual has a net disaster
loss for any taxable year—

(1) the amount determined under section
165(h)(2)(A)(ii) of the Internal Revenue Code of
1986 shall be equal to the sum of—

(A) such net disaster loss, and

(B) so much of the excess referred to in
the matter preceding clause (i) of section
165(h)(2)(A) of such Code (reduced by the
amount in subparagraph (A) of this paragraph)
as exceeds 10 percent of the adjusted gross in-
come of the individual,

(2) in the case of qualified disaster-related per-
sonal casualty losses, section 165(h)(1) of such Code
shall be applied to by substituting “$500” for “$500
($100 for taxable years beginning after December
31, 2009)”,
(3) the standard deduction determined under section 63(c) of such Code shall be increased by the net disaster loss, and

(4) section 56(b)(1)(E) of such Code shall not apply to so much of the standard deduction as is attributable to the increase under paragraph (3) of this paragraph.

(b) Net Disaster Loss.—For purposes of this section, the term “net disaster loss” means the excess of qualified disaster-related personal casualty losses over personal casualty gains (as defined in section 165(h)(3)(A) of the Internal Revenue Code of 1986).

(c) Qualified Disaster-Related Personal Casualty Losses.—For purposes of this section, the term “qualified disaster-related personal casualty losses” means losses described in section 165(e)(3) of the Internal Revenue Code of 1986 which arise in a qualified disaster area on or after the first day of the incident period of the qualified disaster to which such area relates, and which are attributable to such qualified disaster.