II

116TH CONGRESS
1ST SESSION

S. 2544

To provide tax relief for the victims of Hurricane Florence, Hurricane Michael, and certain California wildfires.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2019

Mr. BURR (for himself, Mr. TILLIS, Mrs. FEINSTEIN, Ms. HARRIS, Mr. ISAKSON, Mr. GRAHAM, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide tax relief for the victims of Hurricane Florence, Hurricane Michael, and certain California wildfires.

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 ‘‘Hurricanes Florence and Michael and California Wildfire Tax Relief Act’’.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) HURRICANE FLORENCE DISASTER ZONE.—The term ‘‘Hurricane Florence disaster zone’’ means that portion of the Hurricane Florence disaster area

determined by the President 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 Hurricane Florence.

(2) HURRICANE FLORENCE DISASTER AREA.—The term ‘‘Hurricane Florence disaster area’’ means an area with respect to which a major disaster has been declared by the President before November 26, 2018, under section 401 of such Act by reason of Hurricane Florence.

(3) HURRICANE MICHAEL DISASTER ZONE.—The term ‘‘Hurricane Michael disaster zone’’ means that portion of the Hurricane Michael disaster area determined by the President 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 Hurricane Michael.

(4) HURRICANE MICHAEL DISASTER AREA.—The term ‘‘Hurricane Michael disaster area’’ means an area with respect to which a major disaster has been declared by the President before November 26, 2018, under section 401 of such Act by reason of Hurricane Michael.

(5) MENDOCINO AND CARR WILDFIRES.—

(A) MENDOCINO AND CARR WILDFIRE DISASTER ZONE.—The term “Mendocino and Carr wildfire disaster zone” means that portion of the Mendocino and Carr wildfire disaster area determined by the President 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 wildfires in California commonly known as the Mendocino and Carr wildfires of 2018.

(B) MENDOCINO AND CARR WILDFIRE DISASTER AREA.—The term “Mendocino and Carr wildfire disaster area” means an area with respect to which between August 4, 2018, and November 26, 2018, a major disaster has been declared by the President under section 401 of such Act by reason of the wildfire in California commonly known as the Mendocino and Carr wildfires of 2018.

(6) CAMP, WOOLSEY, AND HILL WILDFIRES.—

(A) CAMP, WOOLSEY, AND HILL WILDFIRE DISASTER ZONE.—The term “Camp, Woolsey, and Hill wildfire disaster zone” means that portion of the Camp, Woolsey, and Hill wildfire disaster area determined by the President 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 wildfires in California commonly known as the Camp, Woolsey, and Hill wildfires of 2018.

(B) CAMP, WOOLSEY, AND HILL WILDFIRE DISASTER AREA.—The term ''Camp, Woolsey, and Hill wildfire disaster area'' means an area with respect to which between November 12, 2018, and December 15, 2018, a major disaster has been declared by the President under section 401 of such Act by reason of the wildfires in California commonly known as the Camp, Woolsey, and Hill wildfires of 2018.

SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF RETIREMENT FUNDS.

(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

(1) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified disaster distribution.

(2) AGGREGATE DOLLAR LIMITATION.—

(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified disaster distributions for any taxable year shall not exceed the excess (if any) of—

(i) $100,000, over

(ii) the aggregate amounts treated as qualified disaster distributions received by such individual for all prior taxable years.

(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified disaster distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified disaster distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term ‘‘controlled group’’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(D) SPECIAL RULE FOR INDIVIDUALS AFFECTED BY MORE THAN ONE DISASTER.—The limitation of subparagraph (A) shall be applied separately with respect to distributions described in each clause of paragraph (4)(A).

(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

(A) IN GENERAL.—Any individual who receives a qualified disaster distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, 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), of the Internal Revenue Code of 1986, as the case may be.

(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified disaster distribution from an eligible retirement 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 distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified disaster distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified disaster distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2), the term ''qualified disaster distribution'' means—

(i) any distribution from an eligible retirement plan made on or after September 7, 2018, and before January 1, 2020, to an individual whose principal place of abode on September 7, 2018, is located in the Hurricane Florence disaster area and who has sustained an economic loss by reason of Hurricane Florence,

(ii) any distribution from an eligible retirement plan made on or after October 7, 2018, and before January 1, 2020, to an individual whose principal place of abode on October 7, 2018, is located in the Hurricane Michael disaster area and who has sustained an economic loss by reason of Hurricane Michael,

(iii) any distribution from an eligible retirement plan made on or after July 23, 2018, and before January 1, 2020, to an individual whose principal place of abode during any portion of the period from July 23, 2018, to September 19, 2018, is located in the Mendocino and Carr wildfire disaster area and who has sustained an economic loss by reason of the wildfires to which the declaration of such area relates, and

(iv) any distribution from an eligible retirement plan made on or after November 8, 2018, and before January 1, 2020, to an individual whose principal place of abode during any portion of the period from November 8, 2018, to December 15, 2018, is located in the Camp, Woolsey, and Hill wildfire disaster area and who has sustained an economic loss by reason of the wildfires to which the declaration of such area relates.

(B) ELIGIBLE RETIREMENT PLAN.—The term ''eligible retirement plan'' shall have the meaning given such term by section

402(c)(8)(B) of the Internal Revenue Code of 1986.

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

(A) IN GENERAL.—In the case of any qualified disaster distribution, unless the taxpayer elects not to have this paragraph 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.

(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

(6) SPECIAL RULES.—

(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified disaster distributions shall not be treated as eligible rollover distributions.

(B) QUALIFIED DISASTER DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION RE-

QUIREMENTS.—For purposes the Internal Revenue Code of 1986, a qualified disaster 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) of such Code.

(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

(1) RECONTRIBUTIONS.—

(A) 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 the Internal Revenue Code of 1986) 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), or 408(d)(3), of such Code, as the case may be.

(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualified distribution'' means any qualified Florence distribution, any qualified Michael distribution, any qualified Mendocino and Carr distribution, and any qualified Camp, Woolsey, and Hill distribution.

(B) QUALIFIED FLORENCE DISTRIBUTION.—The term ''qualified Florence 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), 403(b)(11)(B), or 72(t)(2)(F), of the Internal Revenue Code of 1986,

(ii) received after February 28, 2018, and before November 8, 2018, and

(iii) which was to be used to purchase or construct a principal residence in the Hurricane Florence disaster area, but which was not so purchased or constructed on account of Hurricane Florence.

(C) QUALIFIED MICHAEL DISTRIBUTION.—The term "qualified Michael 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), 403(b)(11)(B), or 72(t)(2)(F), of the Internal Revenue Code of 1986,

(ii) received after February 28, 2018, and before November 23, 2018, and

(iii) which was to be used to purchase or construct a principal residence in the Hurricane Michael disaster area, but which was not so purchased or constructed on account of Hurricane Michael.

(D) QUALIFIED MENDOCINO AND CARR DISTRIBUTION.—The term "qualified Mendocino and Carr 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), 403(b)(11)(B), or

72(t)(2)(F), of the Internal Revenue Code of 1986,

(ii) received after February 28, 2018, and before October 19, 2018, and

(iii) which was to be used to purchase or construct a principal residence in the Mendocino and Carr wildfire disaster area, but which was not so purchased or constructed on account of the wildfires to which the declaration of such area relates.

(E) QUALIFIED CAMP, WOOLSEY, AND HILL DISTRIBUTION.—The term "qualified Camp, Woolsey, and Hill 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), 403(b)(11)(B), or 72(t)(2)(F), of the Internal Revenue Code of 1986,

(ii) received after February 28, 2018, and before December 30, 2018, and

(iii) which was to be used to purchase or construct a principal residence in the Camp, Woolsey, and Hill wildfire disaster area, but which was not so purchased or constructed on account of the wildfires to which the declaration of such area relates.

(3) APPLICABLE PERIOD.—For purposes of this subsection, the term ‘‘applicable period’’ means—

(A) with respect to any qualified Florence distribution, the period beginning on September 7, 2018, and ending on February 28, 2019,

(B) with respect to any qualified Michael distribution, the period beginning on October 7, 2018, and ending on February 28, 2019,

(C) with respect to any qualified Mendocino and Carr distribution, the period beginning on July 23, 2018, and ending on February 28, 2019, and

(D) with respect to any qualified Camp, Woolsey, and Hill distribution, the period beginning on November 8, 2018, and ending on February 28, 2019.

(c) LOANS FROM QUALIFIED PLANS.—

(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made during the pe-

riod beginning on the date of the enactment of this Act and ending on December 31, 2019—

(A) clause (i) of section 72(p)(2)(A) of such Code shall be applied by substituting "$100,000" for "$50,000", and

(B) clause (ii) of such section 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 nonforfeitable accrued benefit of the employee under the plan".

(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4) of the Internal Revenue Code of 1986)—

(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) of such Code for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2019, such due date shall be delayed for 1 year,

(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, the period described in subparagraph (A) shall be disregarded.

(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualified individual'' means any qualified Hurricane Florence individual, any qualified Hurricane Michael individual, any qualified Mendocino and Carr individual, and any qualified Camp, Woolsey, and Hill individual.

(B) QUALIFIED HURRICANE FLORENCE INDIVIDUAL.—The term ''qualified Hurricane Florence individual'' means any individual whose principal place of abode on September 7, 2018, is located in the Hurricane Florence disaster area and who has sustained an economic loss by reason of Hurricane Florence.

(C) QUALIFIED HURRICANE MICHAEL INDIVIDUAL.—The term ''qualified Hurricane Michael individual'' means any individual whose principal place of abode on October 7, 2018, is located in the Hurricane Michael disaster area and who has sustained an economic loss by reason of Hurricane Michael.

(D) QUALIFIED MENDOCINO AND CARR INDIVIDUAL.—The term ''qualified Mendocino and Carr individual'' means any individual whose principal place of abode during any portion of the period from July 23, 2018, to September 19, 2018, is located in the Mendocino and Carr wildfire disaster area and who has sustained an economic loss by reason of wildfires to which the declaration of such area relates.

(E) QUALIFIED CAMP, WOOLSEY, AND HILL INDIVIDUAL.—The term ''qualified Camp, Woolsey, and Hill individual'' means any individual whose principal place of abode during any portion of the period from November 8, 2018, to December 15, 2018, is located in the Camp, Woolsey, and Hill wildfire disaster area and who has sustained an economic loss by reason of wildfires to which the declaration of such area relates.

(4) QUALIFIED BEGINNING DATE.—For purposes of this subsection—

(A) HURRICANE FLORENCE.—In the case of any qualified Florence individual, the qualified beginning date is September 7, 2018.

(B) HURRICANE MICHAEL.—In the case of any qualified Michael individual, the qualified beginning date is October 7, 2018.

(C) MENDOCINO AND CARR WILDFIRE.—In the case of any qualified Mendocino and Carr individual, the qualified beginning date is July 23, 2018.

(D) CAMP, WOOLSEY, AND HILL WILDFIRE.—In the case of any qualified Camp, Woolsey, and Hill individual, the qualified beginning date is November 8, 2018.

(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 provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any provision of this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2020, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), 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 this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required 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.

SEC. 4. EMPLOYMENT RELIEF.

(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE FLORENCE.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Hurricane Florence employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Hurricane Florence 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. For purposes of the preceding sentence, the amount of qualified wages which may

be taken into account with respect to any individual shall not exceed $6,000.

(2) DEFINITIONS.—For purposes of this subsection—

(A) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means any employer—

(i) which conducted an active trade or business on September 7, 2018, in the Hurricane Florence disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 7, 2018, and before January 1, 2019, as a result of damage sustained by reason of Hurricane Florence.

(B) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means with respect to an eligible employer an employee whose principal place of employment on September 7, 2018, with such eligible employer was in the Hurricane Florence disaster zone.

(C) 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 on any day after September 7, 2018, and before January 1, 2019, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Florence, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

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.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sec-

tions 51(i)(1), 52, and 280C(a), of the Internal Revenue Code of 1986, shall apply.

(4) 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.

(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE MICHAEL.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Hurricane Michael employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Hurricane Michael 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. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

(2) DEFINITIONS.—For purposes of this subsection—

(A) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means any employer—

(i) which conducted an active trade or business on October 7, 2018, in the Hurricane Michael disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 7, 2018, and before January 1, 2019, as a result of damage sustained by reason of Hurricane Michael.

(B) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means with respect to an eligible employer an employee whose principal place of employment on October 7, 2018, with such eligible employer was in the Hurricane Michael disaster zone.

(C) 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 on any day after October 7, 2018, and before January 1, 2019, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Michael, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

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.

(3) CERTAIN 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.

(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treat-

ed 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.

(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MENDOCINO AND CARR WILDFIRES.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Mendocino and Carr wildfire employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Mendocino and Carr wildfire 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. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

(2) DEFINITIONS.—For purposes of this subsection—

(A) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means any employer—

(i) which conducted an active trade or business for any portion of the period from July 23, 2018, to September 19, 2018, in the Mendocino and Carr wildfire disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after July 23, 2018, and before January 1, 2019, as a result of damage sustained by reason of the wildfires to which the declaration of the Mendocino and Carr wildfire disaster area relates.

(B) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means with respect to an eligible employer an employee whose principal place of employment for any portion of the period from July 23, 2018, to September 19, 2018, with such eligible employer was in the Mendocino and Carr wildfire disaster zone.

(C) 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 on any day after July 23, 2018, and before January 1, 2019, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before the wildfires to which the declaration of the Mendocino and Carr wildfire disaster area relates, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

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.

(3) CERTAIN 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.

(4) 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.

(d) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY CAMP, WOOLSEY, AND HILL WILDFIRES.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Camp, Woolsey, and Hill wildfire employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Camp, Woolsey, and Hill wildfire 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. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

(2) DEFINITIONS.—For purposes of this subsection—

(A) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means any employer—

(i) which conducted an active trade or business for any portion of the period from November 8, 2018, to December 15, 2018, in the Camp, Woolsey, and Hill wildfire disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after November 8, 2018, and before January 1, 2019, as a result of damage sustained by reason of the wildfires to which the declaration of the Camp, Woolsey, and Hill wildfire disaster area relates.

(B) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means with respect to an eligible employer an employee whose principal place of employment for any portion of the period from November 8, 2018, to December 15, 2018, with such eligible employer was in the Camp, Woolsey, and Hill wildfire disaster zone.

(C) 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 on any day after November 8, 2018, and before January 1, 2019, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before the wildfires to which the declaration of the Camp, Woolsey, and Hill wildfire disaster area relates, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

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.

(3) CERTAIN 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.

(4) 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.

SEC. 5. ADDITIONAL DISASTER-RELATED TAX RELIEF PROVISIONS.

(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), subsection (b) of section 170 of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of such section to other contributions.

(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170 of the Internal Revenue Code of 1986—

(A) INDIVIDUALS.—In the case of an individual—

(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (H) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under section 170(b)(1) of such Code.

(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(B) CORPORATIONS.—In the case of a corporation—

(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other charitable contributions allowed under such paragraph.

(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

(3) QUALIFIED CONTRIBUTIONS.—

(A) IN GENERAL.—For purposes of this subsection, the term ''qualified contribution'' means any charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) if—

(i) such contribution—

(I) is paid during the period beginning on July 23, 2018, and ending on December 31, 2018, in cash to an organization described in section 170(b)(1)(A) of such Code, and

(II) is made for relief efforts in the Hurricane Florence disaster area, the Hurricane Michael disaster area, the Mendocino and Carr wildfire disaster area, or the Camp, Woolsey, and Hill wildfire disaster area,

(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8) of such Code) that such contribution was used (or is to be used) for relief efforts described in clause (i)(II), and

(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

(i) to an organization described in section 509(a)(3) of the Internal Revenue Code of 1986, or

(ii) for the establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2) of such Code).

(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

(b) SPECIAL RULES FOR QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—

(1) IN GENERAL.—If an individual has a net disaster loss for any taxable year—

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

(i) such net disaster loss, and

(ii) 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 clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual,

(B) section 165(h)(1) of such Code shall be applied by substituting "$500" for "$500 ($100 for taxable years beginning after December 31, 2009)",

(C) the standard deduction determined under section 63(c) of such Code shall be increased by the net disaster loss, and

(D) 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 subparagraph (C) of this paragraph.

(2) NET DISASTER LOSS.—For purposes of this subsection, 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).

(3) QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—For purposes of this subsection, the term ‘‘qualified disaster-related personal casualty losses’’ means—

(A) losses described in section 165(c)(3) of the Internal Revenue Code of 1986 which arise in the Hurricane Florence disaster area on or after September 7, 2018, and which are attributable to Hurricane Florence,

(B) losses described in section 165(c)(3) of the Internal Revenue Code of 1986 which arise in the Hurricane Michael disaster area on or after October 7, 2018, and which are attributable to Hurricane Michael,

(C) losses described in section 165(c)(3) of the Internal Revenue Code of 1986 which arise in the Mendocino and Carr wildfire disaster area on or after July 23, 2018, and which are attributable to the wildfires to which the declaration of such area relates, and

(D) losses described in section 165(c)(3) of the Internal Revenue Code of 1986 which arise in the Camp, Woolsey, and Hill wildfire disaster area on or after November 8, 2018, and which are attributable to the wildfires to which the declaration of such area relates.

(c) SPECIAL RULE FOR DETERMINING EARNED INCOME.—

(1) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the applicable taxable year is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

(A) such earned income for the preceding taxable year, for

(B) such earned income for the applicable taxable year.

(2) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualified individual'' means any qualified Hurricane Florence individual, any qualified Hurricane Michael individual, any qualified Mendocino and Carr individual, and any qualified Camp, Woolsey, and Hill individual.

(B) QUALIFIED HURRICANE FLORENCE INDIVIDUAL.—The term ''qualified Hurricane Florence individual'' means any individual whose principal place of abode on September 7, 2018, was located—

(i) in the Hurricane Florence disaster zone, or

(ii) in the Hurricane Florence disaster area (but outside the Hurricane Florence disaster zone) and such individual was displaced from such principal place of abode by reason of Hurricane Florence.

(C) QUALIFIED HURRICANE MICHAEL INDIVIDUAL.—The term "qualified Hurricane Michael individual" means any individual whose principal place of abode on October 7, 2018, was located—

(i) in the Hurricane Michael disaster zone, or

(ii) in the Hurricane Michael disaster area (but outside the Hurricane Michael disaster zone) and such individual was displaced from such principal place of abode by reason of Hurricane Michael.

(D) QUALIFIED MENDOCINO AND CARR INDIVIDUAL.—The term "qualified Mendocino and Carr individual" means any individual whose principal place of abode during any portion of the period from July 23, 2018, to September 19, 2018, was located—

(i) in the Mendocino and Carr wildfire disaster zone, or

(ii) in the Mendocino and Carr wildfire disaster area (but outside the Mendocino and Carr wildfire disaster zone) and such individual was displaced from such principal place of abode by reason of the wildfires to which the declaration of such area relates.

(E) QUALIFIED CAMP, WOOLSEY, AND HILL INDIVIDUAL.—The term "qualified Camp, Woolsey, and Hill individual" means any individual whose principal place of abode during any portion of the period from November 8, 2018, to December 15, 2018, was located—

(i) in the Camp, Woolsey, and Hill wildfire disaster zone, or

(ii) in the Camp, Woolsey, and Hill wildfire disaster area (but outside the Camp, Woolsey, and Hill disaster zone) and such individual was displaced from such principal place of abode by reason of the wildfires to which the declaration of such area relates.

(3) APPLICABLE TAXABLE YEAR.—The term "applicable taxable year" means the taxable year which includes—

(A) in the case of a qualified Hurricane Florence individual, September 7, 2018,

(B) in the case of a qualified Hurricane Michael individual, October 7, 2018,

(C) in the case of a qualified Mendocino and Carr individual, any portion of the period from July 23, 2018, to September 19, 2018, and

(D) in the case of a qualified Camp, Woolsey, and Hill individual, any portion of the period from November 8, 2018, to December 15, 2018.

(4) EARNED INCOME.—For purposes of this subsection, the term ''earned income'' has the meaning given such term under section 32(c) of the Internal Revenue Code of 1986.

(5) SPECIAL RULES.—

(A) APPLICATION TO JOINT RETURNS.—For purposes of paragraph (1), in the case of a joint return for an applicable taxable year—

(i) such paragraph shall apply if either spouse is a qualified individual, and

(ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

(B) UNIFORM APPLICATION OF ELECTION.—Any election made under paragraph (1) shall apply with respect to both sections 24(d) and 32, of the Internal Revenue Code of 1986.

(C) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213 of the Internal Revenue Code of 1986, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

(D) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this subsection, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under paragraph (1).

○