

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.

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 “Hurricanes Florence
5 and Michael and California Wildfire Tax Relief Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

8 (1) HURRICANE FLORENCE DISASTER ZONE.—

9 The term “Hurricane Florence disaster zone” means
10 that portion of the Hurricane Florence disaster area

1 determined by the President to warrant individual or
2 individual and public assistance from the Federal
3 Government under the Robert T. Stafford Disaster
4 Relief and Emergency Assistance Act by reason of
5 Hurricane Florence.

6 (2) HURRICANE FLORENCE DISASTER AREA.—

7 The term “Hurricane Florence disaster area” means
8 an area with respect to which a major disaster has
9 been declared by the President before November 26,
10 2018, under section 401 of such Act by reason of
11 Hurricane Florence.

12 (3) HURRICANE MICHAEL DISASTER ZONE.—

13 The term “Hurricane Michael disaster zone” means
14 that portion of the Hurricane Michael disaster area
15 determined by the President to warrant individual or
16 individual and public assistance from the Federal
17 Government under the Robert T. Stafford Disaster
18 Relief and Emergency Assistance Act by reason of
19 Hurricane Michael.

20 (4) HURRICANE MICHAEL DISASTER AREA.—

21 The term “Hurricane Michael disaster area” means
22 an area with respect to which a major disaster has
23 been declared by the President before November 26,
24 2018, under section 401 of such Act by reason of
25 Hurricane Michael.

1 (5) MENDOCINO AND CARR WILDFIRES.—

2 (A) MENDOCINO AND CARR WILDFIRE DIS-
3 ASTER ZONE.—The term “Mendocino and Carr
4 wildfire disaster zone” means that portion of
5 the Mendocino and Carr wildfire disaster area
6 determined by the President to warrant indi-
7 vidual or individual and public assistance from
8 the Federal Government under the Robert T.
9 Stafford Disaster Relief and Emergency Assist-
10 ance Act by reason of the wildfires in California
11 commonly known as the Mendocino and Carr
12 wildfires of 2018.

13 (B) MENDOCINO AND CARR WILDFIRE DIS-
14 ASTER AREA.—The term “Mendocino and Carr
15 wildfire disaster area” means an area with re-
16 spect to which between August 4, 2018, and
17 November 26, 2018, a major disaster has been
18 declared by the President under section 401 of
19 such Act by reason of the wildfire in California
20 commonly known as the Mendocino and Carr
21 wildfires of 2018.

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

23 (A) CAMP, WOOLSEY, AND HILL WILDFIRE
24 DISASTER ZONE.—The term “Camp, Woolsey,
25 and Hill wildfire disaster zone” means that por-

tion 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.—

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

7 (i) \$100,000, over

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

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

22 (C) CONTROLLED GROUP.—For purposes
23 of subparagraph (B), the term “controlled
24 group” means any group treated as a single
25

1 employer under subsection (b), (c), (m), or (o)
2 of section 414 of the Internal Revenue Code of
3 1986.

4 (D) SPECIAL RULE FOR INDIVIDUALS AF-
5 FECTED BY MORE THAN ONE DISASTER.—The
6 limitation of subparagraph (A) shall be applied
7 separately with respect to distributions de-
8 scribed in each clause of paragraph (4)(A).

9 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

10 (A) IN GENERAL.—Any individual who re-
11 ceives a qualified disaster distribution may, at
12 any time during the 3-year period beginning on
13 the day after the date on which such distribu-
14 tion was received, make one or more contribu-
15 tions in an aggregate amount not to exceed the
16 amount of such distribution to an eligible retire-
17 ment plan of which such individual is a bene-
18 ficiary and to which a rollover contribution of
19 such distribution could be made under section
20 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
21 457(e)(16), of the Internal Revenue Code of
22 1986, as the case may be.

23 (B) TREATMENT OF REPAYMENTS OF DIS-
24 TRIBUTIONS FROM ELIGIBLE RETIREMENT
25 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

1 direct trustee to trustee transfer within 60 days
2 of the distribution.

3 (4) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2),
6 the term “qualified disaster distribution”
7 means—
8

9 (i) any distribution from an eligible
10 retirement plan made on or after Sep-
11 tember 7, 2018, and before January 1,
12 2020, to an individual whose principal
13 place of abode on September 7, 2018, is lo-
14 cated in the Hurricane Florence disaster
15 area and who has sustained an economic
16 loss by reason of Hurricane Florence,

17 (ii) any distribution from an eligible
18 retirement plan made on or after October
19 7, 2018, and before January 1, 2020, to
20 an individual whose principal place of
21 abode on October 7, 2018, is located in the
22 Hurricane Michael disaster area and who
23 has sustained an economic loss by reason
24 of Hurricane Michael,

1 (iii) any distribution from an eligible
2 retirement plan made on or after July 23,
3 2018, and before January 1, 2020, to an
4 individual whose principal place of abode
5 during any portion of the period from July
6 23, 2018, to September 19, 2018, is lo-
7 cated in the Mendocino and Carr wildfire
8 disaster area and who has sustained an
9 economic loss by reason of the wildfires to
10 which the declaration of such area relates,
11 and

12 (iv) any distribution from an eligible
13 retirement plan made on or after Novem-
14 ber 8, 2018, and before January 1, 2020,
15 to an individual whose principal place of
16 abode during any portion of the period
17 from November 8, 2018, to December 15,
18 2018, is located in the Camp, Woolsey, and
19 Hill wildfire disaster area and who has
20 sustained an economic loss by reason of
21 the wildfires to which the declaration of
22 such area relates.

23 (B) ELIGIBLE RETIREMENT PLAN.—The
24 term “eligible retirement plan” shall have the
25 meaning given such term by section

1 402(c)(8)(B) of the Internal Revenue Code of
2 1986.

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

5 (A) IN GENERAL.—In the case of any
6 qualified disaster distribution, unless the tax-
7 payer elects not to have this paragraph apply
8 for any taxable year, any amount required to be
9 included in gross income for such taxable year
10 shall be so included ratably over the 3-taxable-
11 year period beginning with such taxable year.

12 (B) SPECIAL RULE.—For purposes of sub-
13 paragraph (A), rules similar to the rules of sub-
14 paragraph (E) of section 408A(d)(3) of the In-
15 ternal Revenue Code of 1986 shall apply.

16 (6) SPECIAL RULES.—

17 (A) EXEMPTION OF DISTRIBUTIONS FROM
18 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
19 HOLDING RULES.—For purposes of sections
20 401(a)(31), 402(f), and 3405 of the Internal
21 Revenue Code of 1986, qualified disaster dis-
22 tributions shall not be treated as eligible roll-
23 over distributions.

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

1 QUIREMENTS.—For purposes the Internal Rev-
 2 enue Code of 1986, a qualified disaster dis-
 3 tribution shall be treated as meeting the re-
 4 quirements of sections 401(k)(2)(B)(i),
 5 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A)
 6 of such Code.

7 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR
 8 HOME PURCHASES.—

9 (1) RECONTRIBUTIONS.—

10 (A) IN GENERAL.—Any individual who re-
 11 ceived a qualified distribution may, during the
 12 applicable period, make one or more contribu-
 13 tions in an aggregate amount not to exceed the
 14 amount of such qualified distribution to an eli-
 15 gible retirement plan (as defined in section
 16 402(c)(8)(B) of the Internal Revenue Code of
 17 1986) of which such individual is a beneficiary
 18 and to which a rollover contribution of such dis-
 19 tribution could be made under section 402(c),
 20 403(a)(4), 403(b)(8), or 408(d)(3), of such
 21 Code, as the case may be.

22 (B) TREATMENT OF REPAYMENTS.—Rules
 23 similar to the rules of subparagraphs (B) and
 24 (C) of subsection (a)(3) shall apply for purposes
 25 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.

1 (C) QUALIFIED MICHAEL DISTRIBUTION.—

2 The term “qualified Michael distribution”
3 means any distribution—

4 (i) described in section
5 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
6 only to the extent such distribution relates
7 to financial hardship), 403(b)(11)(B), or
8 72(t)(2)(F), of the Internal Revenue Code
9 of 1986,

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

12 (iii) which was to be used to purchase
13 or construct a principal residence in the
14 Hurricane Michael disaster area, but which
15 was not so purchased or constructed on ac-
16 count of Hurricane Michael.

17 (D) QUALIFIED MENDOCINO AND CARR

18 DISTRIBUTION.—The term “qualified
19 Mendocino and Carr distribution” means any
20 distribution—

21 (i) described in section
22 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
23 only to the extent such distribution relates
24 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 con-
structed 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

1 area, but which was not so purchased or
 2 constructed on account of the wildfires to
 3 which the declaration of such area relates.

4 (3) APPLICABLE PERIOD.—For purposes of this
 5 subsection, the term “applicable period” means—

6 (A) with respect to any qualified Florence
 7 distribution, the period beginning on September
 8 7, 2018, and ending on February 28, 2019,

9 (B) with respect to any qualified Michael
 10 distribution, the period beginning on October 7,
 11 2018, and ending on February 28, 2019,

12 (C) with respect to any qualified
 13 Mendocino and Carr distribution, the period be-
 14 ginning on July 23, 2018, and ending on Feb-
 15 ruary 28, 2019, and

16 (D) with respect to any qualified Camp,
 17 Woolsey, and Hill distribution, the period begin-
 18 ning on November 8, 2018, and ending on Feb-
 19 ruary 28, 2019.

20 (c) LOANS FROM QUALIFIED PLANS.—

21 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
 22 ED AS DISTRIBUTIONS.—In the case of any loan
 23 from a qualified employer plan (as defined under
 24 section 72(p)(4) of the Internal Revenue Code of
 25 1986) to a qualified individual made during the pe-

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

3 (A) clause (i) of section 72(p)(2)(A) of
4 such Code shall be applied by substituting
5 “\$100,000” for “\$50,000”, and

6 (B) clause (ii) of such section shall be ap-
7 plied by substituting “the present value of the
8 nonforfeitable accrued benefit of the employee
9 under the plan” for “one-half of the present
10 value of the nonforfeitable accrued benefit of
11 the employee under the plan”.

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

17 (A) if the due date pursuant to subpara-
18 graph (B) or (C) of section 72(p)(2) of such
19 Code for any repayment with respect to such
20 loan occurs during the period beginning on the
21 qualified beginning date and ending on Decem-
22 ber 31, 2019, such due date shall be delayed for
23 1 year,

24 (B) any subsequent repayments with re-
25 spect to any such loan shall be appropriately

1 adjusted to reflect the delay in the due date
 2 under paragraph (1) and any interest accruing
 3 during such delay, and

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

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

11 (A) IN GENERAL.—The term “qualified in-
 12 dividual” means any qualified Hurricane Flor-
 13 ence individual, any qualified Hurricane Mi-
 14 chael individual, any qualified Mendocino and
 15 Carr individual, and any qualified Camp, Wool-
 16 sey, and Hill individual.

17 (B) QUALIFIED HURRICANE FLORENCE IN-
 18 DIVIDUAL.—The term “qualified Hurricane
 19 Florence individual” means any individual
 20 whose principal place of abode on September 7,
 21 2018, is located in the Hurricane Florence dis-
 22 aster area and who has sustained an economic
 23 loss by reason of Hurricane Florence.

24 (C) QUALIFIED HURRICANE MICHAEL IN-
 25 DIVIDUAL.—The term “qualified Hurricane Mi-

1 chael individual” means any individual whose
2 principal place of abode on October 7, 2018, is
3 located in the Hurricane Michael disaster area
4 and who has sustained an economic loss by rea-
5 son of Hurricane Michael.

6 (D) QUALIFIED MENDOCINO AND CARR IN-
7 DIVIDUAL.—The term “qualified Mendocino
8 and Carr individual” means any individual
9 whose principal place of abode during any por-
10 tion of the period from July 23, 2018, to Sep-
11 tember 19, 2018, is located in the Mendocino
12 and Carr wildfire disaster area and who has
13 sustained an economic loss by reason of
14 wildfires to which the declaration of such area
15 relates.

16 (E) QUALIFIED CAMP, WOOLSEY, AND
17 HILL INDIVIDUAL.—The term “qualified Camp,
18 Woolsey, and Hill individual” means any indi-
19 vidual whose principal place of abode during
20 any portion of the period from November 8,
21 2018, to December 15, 2018, is located in the
22 Camp, Woolsey, and Hill wildfire disaster area
23 and who has sustained an economic loss by rea-
24 son of wildfires to which the declaration of such
25 area relates.

1 (4) QUALIFIED BEGINNING DATE.—For pur-
2 poses of this subsection—

3 (A) HURRICANE FLORENCE.—In the case
4 of any qualified Florence individual, the quali-
5 fied beginning date is September 7, 2018.

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

9 (C) MENDOCINO AND CARR WILDFIRE.—In
10 the case of any qualified Mendocino and Carr
11 individual, the qualified beginning date is July
12 23, 2018.

13 (D) CAMP, WOOLSEY, AND HILL WILD-
14 FIRE.—In the case of any qualified Camp,
15 Woolsey, and Hill individual, the qualified be-
16 ginning date is November 8, 2018.

17 (d) PROVISIONS RELATING TO PLAN AMEND-
18 MENTS.—

19 (1) IN GENERAL.—If this subsection applies to
20 any amendment to any plan or annuity contract,
21 such plan or contract shall be treated as being oper-
22 ated in accordance with the terms of the plan during
23 the period described in paragraph (2)(B)(i).

24 (2) AMENDMENTS TO WHICH SUBSECTION AP-
25 PLIES.—

1 (A) IN GENERAL.—This subsection shall
 2 apply to any amendment to any plan or annuity
 3 contract which is made—

4 (i) pursuant to any provision of this
 5 section, or pursuant to any regulation
 6 issued by the Secretary or the Secretary of
 7 Labor under any provision of this section,
 8 and

9 (ii) on or before the last day of the
 10 first plan year beginning on or after Janu-
 11 ary 1, 2020, or such later date as the Sec-
 12 retary may prescribe.

13 In the case of a governmental plan (as defined
 14 in section 414(d) of the Internal Revenue Code
 15 of 1986), clause (ii) shall be applied by sub-
 16 stituting the date which is 2 years after the
 17 date otherwise applied under clause (ii).

18 (B) CONDITIONS.—This subsection shall
 19 not apply to any amendment unless—

20 (i) during the period—

21 (I) beginning on the date that
 22 this section or the regulation de-
 23 scribed in subparagraph (A)(i) takes
 24 effect (or in the case of a plan or con-
 25 tract amendment not required by this

1 section or such regulation, the effective date specified by the plan), and
 2
 3 (II) ending on the date described
 4 in subparagraph (A)(ii) (or, if earlier,
 5 the date the plan or contract amendment is adopted),
 6
 7 the plan or contract is operated as if such plan
 8 or contract amendment were in effect, and
 9 (ii) such plan or contract amendment
 10 applies retroactively for such period.

11 **SEC. 4. EMPLOYMENT RELIEF.**

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

14 (1) **IN GENERAL.—**For purposes of section 38
 15 of the Internal Revenue Code of 1986, in the case
 16 of an eligible employer, the Hurricane Florence employee retention credit shall be treated as a credit
 17 listed in subsection (b) of such section. For purposes
 18 of this subsection, the Hurricane Florence employee retention credit for any taxable year is an amount
 19 equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for
 20 such taxable year. For purposes of the preceding
 21 sentence, the amount of qualified wages which may

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

3 (2) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) ELIGIBLE EMPLOYER.—The term “eli-
6 gible employer” means any employer—

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

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

16 (B) ELIGIBLE EMPLOYEE.—The term “eli-
17 gible employee” means with respect to an eligi-
18 ble employer an employee whose principal place
19 of employment on September 7, 2018, with
20 such eligible employer was in the Hurricane
21 Florence disaster zone.

22 (C) QUALIFIED WAGES.—The term “quali-
23 fied wages” means wages (as defined in section
24 51(c)(1) of the Internal Revenue Code of 1986,
25 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-

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

3 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
4 MORE THAN ONCE.—An employee shall not be treat-
5 ed as an eligible employee for purposes of this sub-
6 section for any period with respect to any employer
7 if such employer is allowed a credit under section 51
8 of the Internal Revenue Code of 1986 with respect
9 to such employee for such period.

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

12 (1) IN GENERAL.—For purposes of section 38
13 of the Internal Revenue Code of 1986, in the case
14 of an eligible employer, the Hurricane Michael em-
15 ployee retention credit shall be treated as a credit
16 listed in subsection (b) of such section. For purposes
17 of this subsection, the Hurricane Michael employee
18 retention credit for any taxable year is an amount
19 equal to 40 percent of the qualified wages with re-
20 spect to each eligible employee of such employer for
21 such taxable year. For purposes of the preceding
22 sentence, the amount of qualified wages which may
23 be taken into account with respect to any individual
24 shall not exceed \$6,000.

1 (2) DEFINITIONS.—For purposes of this sub-
2 section—

3 (A) ELIGIBLE EMPLOYER.—The term “eli-
4 gible employer” means any employer—

5 (i) which conducted an active trade or
6 business on October 7, 2018, in the Hurri-
7 cane Michael disaster zone, and

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

14 (B) ELIGIBLE EMPLOYEE.—The term “eli-
15 gible employee” means with respect to an eligi-
16 ble employer an employee whose principal place
17 of employment on October 7, 2018, with such
18 eligible employer was in the Hurricane Michael
19 disaster zone.

20 (C) QUALIFIED WAGES.—The term “quali-
21 fied wages” means wages (as defined in section
22 51(c)(1) of the Internal Revenue Code of 1986,
23 but without regard to section 3306(b)(2)(B) of
24 such Code) paid or incurred by an eligible em-
25 ployer 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-

1 ed as an eligible employee for purposes of this sub-
 2 section for any period with respect to any employer
 3 if such employer is allowed a credit under section 51
 4 of the Internal Revenue Code of 1986 with respect
 5 to such employee for such period.

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

8 (1) IN GENERAL.—For purposes of section 38
 9 of the Internal Revenue Code of 1986, in the case
 10 of an eligible employer, the Mendocino and Carr
 11 wildfire employee retention credit shall be treated as
 12 a credit listed in subsection (b) of such section. For
 13 purposes of this subsection, the Mendocino and Carr
 14 wildfire employee retention credit for any taxable
 15 year is an amount equal to 40 percent of the quali-
 16 fied wages with respect to each eligible employee of
 17 such employer for such taxable year. For purposes
 18 of the preceding sentence, the amount of qualified
 19 wages which may be taken into account with respect
 20 to any individual shall not exceed \$6,000.

21 (2) DEFINITIONS.—For purposes of this sub-
 22 section—

23 (A) ELIGIBLE EMPLOYER.—The term “eli-
 24 gible employer” means any employer—

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

6 (ii) with respect to whom the trade or
7 business described in clause (i) is inoper-
8 able on any day after July 23, 2018, and
9 before January 1, 2019, as a result of
10 damage sustained by reason of the
11 wildfires to which the declaration of the
12 Mendocino and Carr wildfire disaster area
13 relates.

14 (B) ELIGIBLE EMPLOYEE.—The term “eli-
15 gible employee” means with respect to an eligi-
16 ble employer an employee whose principal place
17 of employment for any portion of the period
18 from July 23, 2018, to September 19, 2018,
19 with such eligible employer was in the
20 Mendocino and Carr wildfire disaster zone.

21 (C) QUALIFIED WAGES.—The term “quali-
22 fied wages” means wages (as defined in section
23 51(c)(1) of the Internal Revenue Code of 1986,
24 but without regard to section 3306(b)(2)(B) of
25 such Code) paid or incurred by an eligible em-

1 employer with respect to an eligible employee on
2 any day after July 23, 2018, and before Janu-
3 ary 1, 2019, which occurs during the period—

4 (i) beginning on the date on which the
5 trade or business described in subpara-
6 graph (A) first became inoperable at the
7 principal place of employment of the em-
8 ployee immediately before the wildfires to
9 which the declaration of the Mendocino
10 and Carr wildfire disaster area relates, and

11 (ii) ending on the date on which such
12 trade or business has resumed significant
13 operations at such principal place of em-
14 ployment.

15 Such term shall include wages paid without re-
16 gard to whether the employee performs no serv-
17 ices, performs services at a different place of
18 employment than such principal place of em-
19 ployment, or performs services at such principal
20 place of employment before significant oper-
21 ations have resumed.

22 (3) CERTAIN RULES TO APPLY.—For purposes
23 of this subsection, rules similar to the rules of sec-
24 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-
25 enue Code of 1986, shall apply.

1 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
2 MORE THAN ONCE.—An employee shall not be treat-
3 ed as an eligible employee for purposes of this sub-
4 section for any period with respect to any employer
5 if such employer is allowed a credit under section 51
6 of the Internal Revenue Code of 1986 with respect
7 to such employee for such period.

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

11 (1) IN GENERAL.—For purposes of section 38
12 of the Internal Revenue Code of 1986, in the case
13 of an eligible employer, the Camp, Woolsey, and Hill
14 wildfire employee retention credit shall be treated as
15 a credit listed in subsection (b) of such section. For
16 purposes of this subsection, the Camp, Woolsey, and
17 Hill wildfire employee retention credit for any tax-
18 able year is an amount equal to 40 percent of the
19 qualified wages with respect to each eligible em-
20 ployee of such employer for such taxable year. For
21 purposes of the preceding sentence, the amount of
22 qualified wages which may be taken into account
23 with respect to any individual shall not exceed
24 \$6,000.

1 (2) DEFINITIONS.—For purposes of this sub-
2 section—

3 (A) ELIGIBLE EMPLOYER.—The term “eli-
4 gible employer” means any employer—

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

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

18 (B) ELIGIBLE EMPLOYEE.—The term “eli-
19 gible employee” means with respect to an eligi-
20 ble employer an employee whose principal place
21 of employment for any portion of the period
22 from November 8, 2018, to December 15, 2018,
23 with such eligible employer was in the Camp,
24 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 em-

1 ployment, or performs services at such principal
 2 place of employment before significant oper-
 3 ations have resumed.

4 (3) CERTAIN RULES TO APPLY.—For purposes
 5 of this subsection, rules similar to the rules of sec-
 6 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-
 7 enue Code of 1986, shall apply.

8 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
 9 MORE THAN ONCE.—An employee shall not be treat-
 10 ed as an eligible employee for purposes of this sub-
 11 section for any period with respect to any employer
 12 if such employer is allowed a credit under section 51
 13 of the Internal Revenue Code of 1986 with respect
 14 to such employee for such period.

15 **SEC. 5. ADDITIONAL DISASTER-RELATED TAX RELIEF PRO-**
 16 **VISIONS.**

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

19 (1) IN GENERAL.—Except as otherwise pro-
 20 vided in paragraph (2), subsection (b) of section 170
 21 of the Internal Revenue Code of 1986 shall not
 22 apply to qualified contributions and such contribu-
 23 tions shall not be taken into account for purposes of
 24 applying subsections (b) and (d) of such section to
 25 other contributions.

1 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—

2 For purposes of section 170 of the Internal Revenue
3 Code of 1986—

4 (A) INDIVIDUALS.—In the case of an indi-
5 vidual—

6 (i) LIMITATION.—Any qualified con-
7 tribution shall be allowed only to the ex-
8 tent that the aggregate of such contribu-
9 tions does not exceed the excess of the tax-
10 payer's contribution base (as defined in
11 subparagraph (H) of section 170(b)(1) of
12 such Code) over the amount of all other
13 charitable contributions allowed under sec-
14 tion 170(b)(1) of such Code.

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

24 (B) CORPORATIONS.—In the case of a cor-
25 poration—

1 (i) LIMITATION.—Any qualified con-
 2 tribution shall be allowed only to the ex-
 3 tent that the aggregate of such contribu-
 4 tions does not exceed the excess of the tax-
 5 payer’s taxable income (as determined
 6 under paragraph (2) of section 170(b) of
 7 such Code) over the amount of all other
 8 charitable contributions allowed under such
 9 paragraph.

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

13 (3) QUALIFIED CONTRIBUTIONS.—

14 (A) IN GENERAL.—For purposes of this
 15 subsection, the term “qualified contribution”
 16 means any charitable contribution (as defined
 17 in section 170(c) of the Internal Revenue Code
 18 of 1986) if—

19 (i) such contribution—

20 (I) is paid during the period be-
 21 ginning on July 23, 2018, and ending
 22 on December 31, 2018, in cash to an
 23 organization described in section
 24 170(b)(1)(A) of such Code, and

1 (II) is made for relief efforts in
2 the Hurricane Florence disaster area,
3 the Hurricane Michael disaster area,
4 the Mendocino and Carr wildfire dis-
5 aster area, or the Camp, Woolsey, and
6 Hill wildfire disaster area,

7 (ii) the taxpayer obtains from such or-
8 ganization contemporaneous written ac-
9 knowledgment (within the meaning of sec-
10 tion 170(f)(8) of such Code) that such con-
11 tribution was used (or is to be used) for
12 relief efforts described in clause (i)(II),
13 and

14 (iii) the taxpayer has elected the ap-
15 plication of this subsection with respect to
16 such contribution.

17 (B) EXCEPTION.—Such term shall not in-
18 clude a contribution by a donor if the contribu-
19 tion is—

20 (i) to an organization described in sec-
21 tion 509(a)(3) of the Internal Revenue
22 Code of 1986, or

23 (ii) for the establishment of a new, or
24 maintenance of an existing, donor advised

1 fund (as defined in section 4966(d)(2) of
2 such Code).

3 (C) APPLICATION OF ELECTION TO PART-
4 NERSHIPS AND S CORPORATIONS.—In the case
5 of a partnership or S corporation, the election
6 under subparagraph (A)(iii) shall be made sepa-
7 rately by each partner or shareholder.

8 (b) SPECIAL RULES FOR QUALIFIED DISASTER-RE-
9 LATED PERSONAL CASUALTY LOSSES.—

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

12 (A) the amount determined under section
13 165(h)(2)(A)(ii) of the Internal Revenue Code
14 of 1986 shall be equal to the sum of—

15 (i) such net disaster loss, and
16 (ii) so much of the excess referred to
17 in the matter preceding clause (i) of sec-
18 tion 165(h)(2)(A) of such Code (reduced
19 by the amount in clause (i) of this sub-
20 paragraph) as exceeds 10 percent of the
21 adjusted gross income of the individual,

22 (B) section 165(h)(1) of such Code shall
23 be applied by substituting “\$500” for “\$500
24 (\$100 for taxable years beginning after Decem-
25 ber 31, 2009)”,

1 (C) the standard deduction determined
 2 under section 63(c) of such Code shall be in-
 3 creased by the net disaster loss, and

4 (D) section 56(b)(1)(E) of such Code shall
 5 not apply to so much of the standard deduction
 6 as is attributable to the increase under sub-
 7 paragraph (C) of this paragraph.

8 (2) NET DISASTER LOSS.—For purposes of this
 9 subsection, the term “net disaster loss” means the
 10 excess of qualified disaster-related personal casualty
 11 losses over personal casualty gains (as defined in
 12 section 165(h)(3)(A) of the Internal Revenue Code
 13 of 1986).

14 (3) QUALIFIED DISASTER-RELATED PERSONAL
 15 CASUALTY LOSSES.—For purposes of this sub-
 16 section, the term “qualified disaster-related personal
 17 casualty losses” means—

18 (A) losses described in section 165(c)(3) of
 19 the Internal Revenue Code of 1986 which arise
 20 in the Hurricane Florence disaster area on or
 21 after September 7, 2018, and which are attrib-
 22 utable to Hurricane Florence,

23 (B) losses described in section 165(c)(3) of
 24 the Internal Revenue Code of 1986 which arise
 25 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—

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

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

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

7 (A) IN GENERAL.—The term “qualified in-
8 dividual” means any qualified Hurricane Flor-
9 ence individual, any qualified Hurricane Mi-
10 chael individual, any qualified Mendocino and
11 Carr individual, and any qualified Camp, Wool-
12 sey, and Hill individual.

13 (B) QUALIFIED HURRICANE FLORENCE IN-
14 DIVIDUAL.—The term “qualified Hurricane
15 Florence individual” means any individual
16 whose principal place of abode on September 7,
17 2018, was located—

18 (i) in the Hurricane Florence disaster
19 zone, or

20 (ii) in the Hurricane Florence disaster
21 area (but outside the Hurricane Florence
22 disaster zone) and such individual was dis-
23 placed from such principal place of abode
24 by reason of Hurricane Florence.

1 (C) QUALIFIED HURRICANE MICHAEL IN-
2 DIVIDUAL.—The term “qualified Hurricane Mi-
3 chael individual” means any individual whose
4 principal place of abode on October 7, 2018,
5 was located—

6 (i) in the Hurricane Michael disaster
7 zone, or

8 (ii) in the Hurricane Michael disaster
9 area (but outside the Hurricane Michael
10 disaster zone) and such individual was dis-
11 placed from such principal place of abode
12 by reason of Hurricane Michael.

13 (D) QUALIFIED MENDOCINO AND CARR IN-
14 DIVIDUAL.—The term “qualified Mendocino
15 and Carr individual” means any individual
16 whose principal place of abode during any por-
17 tion of the period from July 23, 2018, to Sep-
18 tember 19, 2018, was located—

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

21 (ii) in the Mendocino and Carr wild-
22 fire disaster area (but outside the
23 Mendocino and Carr wildfire disaster zone)
24 and such individual was displaced from
25 such principal place of abode by reason of

1 the wildfires to which the declaration of
2 such area relates.

3 (E) QUALIFIED CAMP, WOOLSEY, AND
4 HILL INDIVIDUAL.—The term “qualified Camp,
5 Woolsey, and Hill individual” means any indi-
6 vidual whose principal place of abode during
7 any portion of the period from November 8,
8 2018, to December 15, 2018, was located—

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

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

18 (3) APPLICABLE TAXABLE YEAR.—The term
19 “applicable taxable year” means the taxable year
20 which includes—

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

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

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

5 (D) in the case of a qualified Camp, Wool-
 6 sey, and Hill individual, any portion of the pe-
 7 riod from November 8, 2018, to December 15,
 8 2018.

9 (4) EARNED INCOME.—For purposes of this
 10 subsection, the term “earned income” has the mean-
 11 ing given such term under section 32(c) of the Inter-
 12 nal Revenue Code of 1986.

13 (5) SPECIAL RULES.—

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

17 (i) such paragraph shall apply if ei-
 18 ther spouse is a qualified individual, and

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

23 (B) UNIFORM APPLICATION OF ELEC-
 24 TION.—Any election made under paragraph (1)

1 shall apply with respect to both sections 24(d)
2 and 32, of the Internal Revenue Code of 1986.

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

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

○