

115TH CONGRESS
2D SESSION

H. R. 7166

To provide tax relief for the victims of Hurricane Michael, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2018

Mr. DUNN (for himself and Mr. LAWSON of Florida) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide tax relief for the victims of Hurricane Michael,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricane Michael Tax
5 Relief Act”.

6 **SEC. 2. HURRICANE MICHAEL DISASTER ZONE AND DIS-**
7 **ASTER AREA.**

8 (a) HURRICANE MICHAEL DISASTER ZONE.—For
9 purposes of this Act, the term “Hurricane Michael dis-
10 aster zone” means that portion of the Hurricane Michael

1 disaster area determined by the President to warrant indi-
 2 vidual or individual and public assistance from the Federal
 3 Government under such Act by reason of Hurricane Mi-
 4 chael.

5 (b) HURRICANE MICHAEL DISASTER AREA.—The
 6 term “Hurricane Michael disaster area” means an area
 7 with respect to which a major disaster has been declared
 8 by the President before October 19, 2018, under section
 9 401 of such Act by reason of Hurricane Michael.

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

12 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
 13 MENT PLANS.—

14 (1) IN GENERAL.—Section 72(t) of the Internal
 15 Revenue Code of 1986 shall not apply to any quali-
 16 fied hurricane distribution.

17 (2) AGGREGATE DOLLAR LIMITATION.—

18 (A) IN GENERAL.—For purposes of this
 19 subsection, the aggregate amount of distribu-
 20 tions received by an individual which may be
 21 treated as qualified hurricane distributions for
 22 any taxable year shall not exceed the excess (if
 23 any) of—

24 (i) \$100,000; over

1 (ii) the aggregate amounts treated as
2 qualified hurricane distributions received
3 by such individual for all prior taxable
4 years.

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

17 (C) CONTROLLED GROUP.—For purposes
18 of subparagraph (B), the term “controlled
19 group” means any group treated as a single
20 employer under subsection (b), (c), (m), or (o)
21 of section 414 of the Internal Revenue Code of
22 1986.

23 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

24 (A) IN GENERAL.—Any individual who re-
25 ceives a qualified hurricane distribution may, at

1 any time during the 3-year period beginning on
2 the day after the date on which such distribu-
3 tion was received, make one or more contribu-
4 tions in an aggregate amount not to exceed the
5 amount of such distribution to an eligible retire-
6 ment plan of which such individual is a bene-
7 ficiary and to which a rollover contribution of
8 such distribution could be made under section
9 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
10 457(e)(16), of the Internal Revenue Code of
11 1986, as the case may be.

12 (B) TREATMENT OF REPAYMENTS OF DIS-
13 TRIBUTIONS FROM ELIGIBLE RETIREMENT
14 PLANS OTHER THAN IRAS.—For purposes of
15 the Internal Revenue Code of 1986, if a con-
16 tribution is made pursuant to subparagraph (A)
17 with respect to a qualified hurricane distribu-
18 tion from an eligible retirement plan other than
19 an individual retirement plan, then the taxpayer
20 shall, to the extent of the amount of the con-
21 tribution, be treated as having received the
22 qualified hurricane distribution in an eligible
23 rollover distribution (as defined in section
24 402(c)(4) of such Code) and as having trans-
25 ferred the amount to the eligible retirement

1 plan in a direct trustee to trustee transfer with-
2 in 60 days of the distribution.

3 (C) TREATMENT OF REPAYMENTS FOR
4 DISTRIBUTIONS FROM IRAS.—For purposes of
5 the Internal Revenue Code of 1986, if a con-
6 tribution is made pursuant to subparagraph (A)
7 with respect to a qualified hurricane distribu-
8 tion from an individual retirement plan (as de-
9 fined by section 7701(a)(37) of such Code),
10 then, to the extent of the amount of the con-
11 tribution, the qualified hurricane distribution
12 shall be treated as a distribution described in
13 section 408(d)(3) of such Code and as having
14 been transferred to the eligible retirement plan
15 in a direct trustee to trustee transfer within 60
16 days of the distribution.

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

19 (A) QUALIFIED HURRICANE DISTRIBUTU-
20 TION.—Except as provided in paragraph (2),
21 the term “qualified hurricane distribution”
22 means any distribution from an eligible retire-
23 ment plan made on or after October 9, 2018,
24 and before January 1, 2020, to an individual
25 whose principal place of abode on October 9,

2018, is located in the Hurricane Michael disaster area and who has sustained an economic loss by reason of Hurricane Michael.

(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 hurricane 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 hurricane distributions shall not be treated as eligible rollover distributions.

(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes the Internal Revenue Code of 1986, a qualified hurricane 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 period beginning on October 9, 2018, and ending on March 31, 2019, 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 dis-

tribution 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, the term “qualified distribution” means any distribution—

(A) 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;

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

(C) 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.

(c) LOANS FROM QUALIFIED PLANS.—

(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan

1 from a qualified employer plan (as defined under
2 section 72(p)(4) of the Internal Revenue Code of
3 1986) to a qualified individual made during the pe-
4 riod beginning on the date of the enactment of this
5 Act and ending on December 31, 2019—

6 (A) clause (i) of section 72(p)(2)(A) of
7 such Code shall be applied by substituting
8 “\$100,000” for “\$50,000”; and

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

15 (2) DELAY OF REPAYMENT.—In the case of a
16 qualified individual with an outstanding loan on or
17 after October 9, 2018, from a qualified employer
18 plan (as defined in section 72(p)(4) of the Internal
19 Revenue Code of 1986)—

20 (A) if the due date pursuant to subpara-
21 graph (B) or (C) of section 72(p)(2) of such
22 Code for any repayment with respect to such
23 loan occurs during the period beginning on Oc-
24 tober 9, 2018, and ending on December 31,
25 2019, such due date shall be delayed for 1 year;

1 (B) any subsequent repayments with re-
2 spect to any such loan shall be appropriately
3 adjusted to reflect the delay in the due date
4 under paragraph (1) and any interest accruing
5 during such delay; and

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

11 (3) QUALIFIED HURRICANE MICHAEL INDIVIDUAL.—For purposes of this subsection, the term
12 “qualified Hurricane Michael individual” means an
13 individual whose principal place of abode on October
14 9, 2018, is located in the Hurricane Michael disaster
15 area and who has sustained an economic loss by rea-
16 son of Hurricane Michael.

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).

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

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

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

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

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

20 (B) CONDITIONS.—This subsection shall
21 not apply to any amendment unless—

22 (i) during the period—

23 (I) beginning on the date that
24 this section or the regulation de-
25 scribed in subparagraph (A)(i) takes

1 effect (or in the case of a plan or con-
2 tract amendment not required by this
3 section or such regulation, the effec-
4 tive date specified by the plan); and

5 (II) ending on the date described
6 in subparagraph (A)(ii) (or, if earlier,
7 the date the plan or contract amend-
8 ment is adopted),

9 the plan or contract is operated as if such
10 plan or contract amendment were in effect;
11 and

12 (ii) such plan or contract amendment
13 applies retroactively for such period.

14 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
15 **AFFECTED BY HURRICANE MICHAEL.**

16 (a) IN GENERAL.—For purposes of section 38 of the
17 Internal Revenue Code of 1986, in the case of an eligible
18 employer, the Hurricane Michael employee retention credit
19 shall be treated as a credit listed in subsection (b) of such
20 section. For purposes of this section, the Hurricane Mi-
21 chael employee retention credit for any taxable year is an
22 amount equal to 40 percent of the qualified wages with
23 respect to each eligible employee of such employer for such
24 taxable year. For purposes of the preceding sentence, the
25 amount of qualified wages which may be taken into ac-

1 count with respect to any individual shall not exceed
2 \$6,000.

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

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

6 (A) which conducted an active trade or
7 business on October 9, 2018, in the Hurricane
8 Michael disaster zone; and

9 (B) with respect to whom the trade or
10 business described in subparagraph (A) is inop-
11 erable on any day after October 9, 2018, and
12 before January 1, 2019, as a result of damage
13 sustained by reason of Hurricane Michael.

14 (2) ELIGIBLE EMPLOYEE.—The term “eligible
15 employee” means with respect to an eligible em-
16 ployer an employee whose principal place of employ-
17 ment on October 9, 2018, with such eligible em-
18 ployer was in the Hurricane Michael disaster zone.

19 (3) QUALIFIED WAGES.—The term “qualified
20 wages” means wages (as defined in section 51(c)(1)
21 of the Internal Revenue Code of 1986, but without
22 regard to section 3306(b)(2)(B) of such Code) paid
23 or incurred by an eligible employer with respect to
24 an eligible employee on any day after October 9,

1 2018, and before February 1, 2019, which occurs
2 during the period—

3 (A) beginning on the date on which the
4 trade or business described in paragraph (1)
5 first became inoperable at the principal place of
6 employment of the employee immediately before
7 Hurricane Michael; and

8 (B) ending on the date on which such
9 trade or business has resumed significant oper-
10 ations at such principal place of employment.

11 Such term shall include wages paid without regard
12 to whether the employee performs no services, per-
13 forms services at a different place of employment
14 than such principal place of employment, or per-
15 forms services at such principal place of employment
16 before significant operations have resumed.

17 (c) CERTAIN RULES TO APPLY.—For purposes of
18 this section, rules similar to the rules of sections 51(i)(1),
19 52, and 280C(a), of the Internal Revenue Code of 1986,
20 shall apply.

21 (d) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE
22 THAN ONCE.—An employee shall not be treated as an eli-
23 gible employee for purposes of this section for any period
24 with respect to any employer if such employer is allowed

1 a credit under section 51 of the Internal Revenue Code
 2 of 1986 with respect to such employee for such period.

3 **SEC. 5. ADDITIONAL DISASTER-RELATED TAX RELIEF PRO-**
 4 **VISIONS.**

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

7 (1) IN GENERAL.—Except as otherwise pro-
 8 vided in paragraph (2), subsection (b) of section 170
 9 of the Internal Revenue Code of 1986 shall not
 10 apply to qualified contributions and such contribu-
 11 tions shall not be taken into account for purposes of
 12 applying subsections (b) and (d) of such section to
 13 other contributions.

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

17 (A) INDIVIDUALS.—In the case of an indi-
 18 vidual—

19 (i) LIMITATION.—Any qualified con-
 20 tribution shall be allowed only to the ex-
 21 tent that the aggregate of such contribu-
 22 tions does not exceed the excess of the tax-
 23 payer's contribution base (as defined in
 24 subparagraph (H) of section 170(b)(1) of
 25 such Code) over the amount of all other

1 charitable contributions allowed under sec-
2 tion 170(b)(1) of such Code.

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

12 (B) CORPORATIONS.—In the case of a cor-
13 poration—

14 (i) LIMITATION.—Any qualified con-
15 tribution shall be allowed only to the ex-
16 tent that the aggregate of such contribu-
17 tions does not exceed the excess of the tax-
18 payer's taxable income (as determined
19 under paragraph (2) of section 170(b) of
20 such Code) over the amount of all other
21 charitable contributions allowed under such
22 paragraph.

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

1 (3) QUALIFIED CONTRIBUTIONS.—

2 (A) IN GENERAL.—For purposes of this
3 subsection, the term “qualified contribution”
4 means any charitable contribution (as defined
5 in section 170(c) of the Internal Revenue Code
6 of 1986) if—

7 (i) such contribution—

8 (I) is paid during the period be-
9 ginning on October 9, 2018, and end-
10 ing on December 31, 2018, in cash to
11 an organization described in section
12 170(b)(1)(A) of such Code; and

13 (II) is made for relief efforts in
14 the Hurricane Michael disaster area;

15 (ii) the taxpayer obtains from such or-
16 ganization contemporaneous written ac-
17 knowledgment (within the meaning of sec-
18 tion 170(f)(8) of such Code) that such con-
19 tribution was used (or is to be used) for
20 relief efforts described in clause (i)(II);
21 and

22 (iii) the taxpayer has elected the ap-
23 plication of this subsection with respect to
24 such contribution.

1 (B) EXCEPTION.—Such term shall not in-
 2 clude a contribution by a donor if the contribu-
 3 tion is—

4 (i) to an organization described in sec-
 5 tion 509(a)(3) of the Internal Revenue
 6 Code of 1986; or

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

11 (C) APPLICATION OF ELECTION TO PART-
 12 NERSHIPS AND S CORPORATIONS.—In the case
 13 of a partnership or S corporation, the election
 14 under subparagraph (A)(iii) shall be made sepa-
 15 rately by each partner or shareholder.

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

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

20 (A) the amount determined under section
 21 165(h)(2)(A)(ii) of the Internal Revenue Code
 22 of 1986 shall be equal to the sum of—

23 (i) such net disaster loss; and

24 (ii) so much of the excess referred to
 25 in the matter preceding clause (i) of sec-

1 tion 165(h)(2)(A) of such Code (reduced
2 by the amount in clause (i) of this sub-
3 paragraph) as exceeds 10 percent of the
4 adjusted gross income of the individual;

5 (B) section 165(h)(1) of such Code shall
6 be applied by substituting “\$500” for “\$500
7 (\$100 for taxable years beginning after Decem-
8 ber 31, 2009)”;

9 (C) the standard deduction determined
10 under section 63(c) of such Code shall be in-
11 creased by the net disaster loss; and

12 (D) section 56(b)(1)(E) of such Code shall
13 not apply to so much of the standard deduction
14 as is attributable to the increase under sub-
15 paragraph (C) of this paragraph.

16 (2) NET DISASTER LOSS.—For purposes of this
17 subsection, the term “net disaster loss” means the
18 excess of qualified disaster-related personal casualty
19 losses over personal casualty gains (as defined in
20 section 165(h)(3)(A) of the Internal Revenue Code
21 of 1986).

22 (3) QUALIFIED DISASTER-RELATED PERSONAL
23 CASUALTY LOSSES.—For purposes of this sub-
24 section, the term “qualified disaster-related personal
25 casualty losses” means losses described in section

1 165(c)(3) of the Internal Revenue Code of 1986
2 which arise in the Hurricane Michael disaster area
3 on or after October 9, 2018, and which are attrib-
4 utable to Hurricane Michael.

5 (c) SPECIAL RULE FOR DETERMINING EARNED IN-
6 COME.—

7 (1) IN GENERAL.—In the case of a qualified
8 Hurricane Michael individual, if the earned income
9 of the taxpayer for the taxable year which includes
10 October 9, 2018, is less than the earned income of
11 the taxpayer for the preceding taxable year, the
12 credits allowed under sections 24(d) and 32 of the
13 Internal Revenue Code of 1986 may, at the election
14 of the taxpayer, be determined by substituting—

15 (A) such earned income for the preceding
16 taxable year; for

17 (B) such earned income for the taxable
18 year which includes October 9, 2018.

19 (2) QUALIFIED HURRICANE MICHAEL INDIV-
20 IDUAL.—For purposes of this subsection, the term
21 “qualified Hurricane Michael individual” means any
22 individual whose principal place of abode on October
23 9, 2018, was located—

24 (A) in the Hurricane Michael disaster
25 zone; or

1 (B) in the Hurricane Michael disaster area
2 (but outside the Hurricane Michael disaster
3 zone) and such individual was displaced from
4 such principal place of abode by reason of Hur-
5 ricane Michael.

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

10 (4) SPECIAL RULES.—

11 (A) APPLICATION TO JOINT RETURNS.—
12 For purposes of paragraph (1), in the case of
13 a joint return for a taxable year which includes
14 October 9, 2018—

15 (i) such paragraph shall apply if ei-
16 ther spouse is a qualified individual; and

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

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

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

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

○