

Calendar No. 28

116TH CONGRESS
1ST SESSION

S. 617

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, to provide disaster tax relief, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. GRASSLEY (for himself and Mr. WYDEN) introduced the following bill;
which was read the first time

MARCH 4, 2019

Read the second time and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, to provide disaster tax relief, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Extender and Disaster Relief Act of 2019”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Provisions Expiring in 2018

- Sec. 101. Nonbusiness energy property.
- Sec. 102. Qualified fuel cell motor vehicles.
- Sec. 103. Alternative fuel refueling property credit.
- Sec. 104. 2-wheeled plug-in electric vehicle credit.
- Sec. 105. Second generation biofuel producer credit.
- Sec. 106. Biodiesel and renewable diesel incentives.
- Sec. 107. Credit for electricity produced from certain renewable resources.
- Sec. 108. Production credit for Indian coal facilities.
- Sec. 109. Railroad track maintenance credit.
- Sec. 110. Energy efficient homes credit.
- Sec. 111. Classification of certain race horses as 3-year property.
- Sec. 112. Special allowance for second generation biofuel plant property.
- Sec. 113. Energy efficient commercial buildings deduction.
- Sec. 114. Election to expense advanced mine safety equipment.
- Sec. 115. Extension of special rule for sales or dispositions to implement FERC
or State electric restructuring policy for qualified electric utili-
ties.
- Sec. 116. Extension and clarification of excise tax credits relating to alternative
fuels.
- Sec. 117. 7-year recovery period for motorsports entertainment complexes.
- Sec. 118. Accelerated depreciation for business property on Indian reservation.
- Sec. 119. Expensing rules for certain productions.
- Sec. 120. Indian employment credit.
- Sec. 121. Mine rescue team training credit.
- Sec. 122. Exclusion from gross income of discharge of qualified principal resi-
dence indebtedness.
- Sec. 123. Treatment of mortgage insurance premiums as qualified residence in-
terest.
- Sec. 124. Deduction of qualified tuition and related expenses.
- Sec. 125. Extension of empowerment zone tax incentives.
- Sec. 126. American Samoa economic development credit.

Subtitle B—Provisions Expiring in 2019

- Sec. 151. Temporary reduction in medical expense deduction floor.
- Sec. 152. Extension of oil spill liability trust fund rate.
- Sec. 153. Black lung liability trust fund excise tax.

TITLE II—DISASTER TAX RELIEF

Sec. 201. Definitions.

Sec. 202. Special disaster-related rules for use of retirement funds.

Sec. 203. Employee retention credit for employers affected by qualified disasters.

Sec. 204. Other disaster-related tax relief provisions.

Sec. 205. Treatment of certain possessions.

1 **TITLE I—EXTENSION OF**
2 **EXPIRING PROVISIONS**
3 **Subtitle A—Provisions Expiring in**
4 **2018**

5 **SEC. 101. NONBUSINESS ENERGY PROPERTY.**

6 (a) IN GENERAL.—Section 25C(g)(2) is amended by
7 striking “December 31, 2017” and inserting “December
8 31, 2019”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to property placed in service after
11 December 31, 2017.

12 **SEC. 102. QUALIFIED FUEL CELL MOTOR VEHICLES.**

13 (a) IN GENERAL.—Section 30B(k)(1) is amended by
14 striking “December 31, 2017” and inserting “December
15 31, 2019”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to property purchased after De-
18 cember 31, 2017.

1 **SEC. 103. ALTERNATIVE FUEL REFUELING PROPERTY**
2 **CREDIT.**

3 (a) IN GENERAL.—Section 30C(g) is amended by
4 striking “December 31, 2017” and inserting “December
5 31, 2019”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to property placed in service after
8 December 31, 2017.

9 **SEC. 104. 2-WHEELED PLUG-IN ELECTRIC VEHICLE CREDIT.**

10 (a) IN GENERAL.—Section 30D(g)(3)(E)(ii) is
11 amended by striking “January 1, 2018” and inserting
12 “January 1, 2020”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to vehicles acquired after Decem-
15 ber 31, 2017.

16 **SEC. 105. SECOND GENERATION BIOFUEL PRODUCER**
17 **CREDIT.**

18 (a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended
19 by striking “January 1, 2018” and inserting “January 1,
20 2020”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to qualified second generation
23 biofuel production after December 31, 2017.

24 **SEC. 106. BIODIESEL AND RENEWABLE DIESEL INCEN-**
25 **TIVES.**

26 (a) INCOME TAX CREDIT.—

1 (1) IN GENERAL.—Subsection (g) of section
2 40A is amended by striking “December 31, 2017”
3 and inserting “December 31, 2019”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to fuel sold or used
6 after December 31, 2017.

7 (b) EXCISE TAX INCENTIVES.—

8 (1) IN GENERAL.—Section 6426(c)(6) is
9 amended by striking “December 31, 2017” and in-
10 serting “December 31, 2019”.

11 (2) PAYMENTS.—Section 6427(e)(6)(B) is
12 amended by striking “December 31, 2017” and in-
13 serting “December 31, 2019”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to fuel sold or used
16 after December 31, 2017.

17 (4) SPECIAL RULE FOR 2018.—Notwithstanding
18 any other provision of law, in the case of any bio-
19 diesel mixture credit properly determined under sec-
20 tion 6426(c) of the Internal Revenue Code of 1986
21 for the period beginning on January 1, 2018, and
22 ending on December 31, 2018, such credit shall be
23 allowed, and any refund or payment attributable to
24 such credit (including any payment under section
25 6427(e) of such Code) shall be made, only in such

1 manner as the Secretary of the Treasury (or the
2 Secretary's delegate) shall provide. Such Secretary
3 shall issue guidance within 30 days after the date of
4 the enactment of this Act providing for a one-time
5 submission of claims covering periods described in
6 the preceding sentence. Such guidance shall provide
7 for a 180-day period for the submission of such
8 claims (in such manner as prescribed by such Sec-
9 retary) to begin not later than 30 days after such
10 guidance is issued. Such claims shall be paid by such
11 Secretary not later than 60 days after receipt. If
12 such Secretary has not paid pursuant to a claim
13 filed under this subsection within 60 days after the
14 date of the filing of such claim, the claim shall be
15 paid with interest from such date determined by
16 using the overpayment rate and method under sec-
17 tion 6621 of such Code.

18 **SEC. 107. CREDIT FOR ELECTRICITY PRODUCED FROM**
19 **CERTAIN RENEWABLE RESOURCES.**

20 (a) IN GENERAL.—The following provisions of sec-
21 tion 45(d) are each amended by striking “January 1,
22 2018” each place it appears and inserting “January 1,
23 2020”:

24 (1) Paragraph (2)(A).

25 (2) Paragraph (3)(A).

1 (3) Paragraph (4)(B).

2 (4) Paragraph (6).

3 (5) Paragraph (7).

4 (6) Paragraph (9).

5 (7) Paragraph (11)(B).

6 (b) EXTENSION OF ELECTION TO TREAT QUALIFIED
 7 FACILITIES AS ENERGY PROPERTY.—Section
 8 48(a)(5)(C)(ii) is amended by striking “before January 1,
 9 2018 (January 1, 2020, in the case of any facility which
 10 is described in paragraph (1) of section 45(d)), and” and
 11 inserting “before—

12 “(I) January 1, 2020, in the case
 13 of any facility which is described in
 14 paragraph (1) of section 45(d), and

15 “(II) January 1, 2020, in the
 16 case of any other facility, and”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall take effect on January 1, 2018.

19 **SEC. 108. PRODUCTION CREDIT FOR INDIAN COAL FACILI-**
 20 **TIES.**

21 (a) IN GENERAL.—Section 45(e)(10)(A) is amended
 22 by striking “12-year period” each place it appears and in-
 23 serting “14-year period”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to coal produced after December
 3 31, 2017.

4 **SEC. 109. RAILROAD TRACK MAINTENANCE CREDIT.**

5 (a) IN GENERAL.—Section 45G((f) is amended by
 6 striking “January 1, 2018” and inserting “January 1,
 7 2020”.

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendment made by
 10 this section shall apply to expenditures paid or in-
 11 curred during taxable years beginning after Decem-
 12 ber 31, 2017.

13 (2) SAFE HARBOR ASSIGNMENTS.—Assign-
 14 ments, including related expenditures paid or in-
 15 curred, under paragraph (2) of section 45G(b) of the
 16 Internal Revenue Code of 1986 for any taxable year
 17 beginning on or after January 1, 2018, and before
 18 January 1, 2019, shall be treated as effective as of
 19 the close of such taxable year if made pursuant to
 20 a written agreement entered into no later than 90
 21 days following the date of the enactment of this Act.

22 **SEC. 110. ENERGY EFFICIENT HOMES CREDIT.**

23 (a) IN GENERAL.—Section 45L(g) is amended by
 24 striking “December 31, 2017” and inserting “December
 25 31, 2019”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to homes acquired after December
 3 31, 2017.

4 **SEC. 111. CLASSIFICATION OF CERTAIN RACE HORSES AS 3-**
 5 **YEAR PROPERTY.**

6 (a) IN GENERAL.—Section 168(e)(3)(A)(i) is amend-
 7 ed—

8 (1) by striking “January 1, 2018” in subclause
 9 (I) and inserting “January 1, 2020”, and

10 (2) by striking “December 31, 2017” in sub-
 11 clause (II) and inserting “December 31, 2019”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to property placed in service after
 14 December 31, 2017.

15 **SEC. 112. SPECIAL ALLOWANCE FOR SECOND GENERATION**
 16 **BIOFUEL PLANT PROPERTY.**

17 (a) IN GENERAL.—Section 168(l)(2)(D) is amended
 18 by striking “January 1, 2018” and inserting “January 1,
 19 2020”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to property placed in service after
 22 December 31, 2017.

1 **SEC. 113. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
2 **DUCTION.**

3 (a) IN GENERAL.—Section 179D(h) is amended by
4 striking “December 31, 2017” and inserting “December
5 31, 2019”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to property placed in service after
8 December 31, 2017.

9 **SEC. 114. ELECTION TO EXPENSE ADVANCED MINE SAFETY**
10 **EQUIPMENT.**

11 (a) IN GENERAL.—Section 179E(g) is amended by
12 striking “December 31, 2017” and inserting “December
13 31, 2019”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to property placed in service after
16 December 31, 2017.

17 **SEC. 115. EXTENSION OF SPECIAL RULE FOR SALES OR DIS-**
18 **POSITIONS TO IMPLEMENT FERC OR STATE**
19 **ELECTRIC RESTRUCTURING POLICY FOR**
20 **QUALIFIED ELECTRIC UTILITIES.**

21 (a) IN GENERAL.—Section 451(k)(3) is amended by
22 striking “January 1, 2018” and inserting “January 1,
23 2020”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to dispositions after December 31,
26 2017.

1 **SEC. 116. EXTENSION AND CLARIFICATION OF EXCISE TAX**

2 **CREDITS RELATING TO ALTERNATIVE FUELS.**

3 (a) EXTENSION.—

4 (1) IN GENERAL.—Sections 6426(d)(5) and
5 6426(e)(3) are each amended by striking “December
6 31, 2017” and inserting “December 31, 2019”.

7 (2) OUTLAY PAYMENTS FOR ALTERNATIVE
8 FUELS.—Section 6427(e)(6)(C) is amended by strik-
9 ing “December 31, 2017” and inserting “December
10 31, 2019”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this section shall apply to fuel sold or used after
13 December 31, 2017.

14 (b) SPECIAL RULE FOR 2018.—Notwithstanding any
15 other provision of law, in the case of any alternative fuel
16 credit properly determined under section 6426(d) of the
17 Internal Revenue Code of 1986 for the period beginning
18 on January 1, 2018, and ending on December 31, 2018,
19 such credit shall be allowed, and any refund or payment
20 attributable to such credit (including any payment under
21 section 6427(e) of such Code) shall be made, only in such
22 manner as the Secretary of the Treasury (or the Sec-
23 retary’s delegate) shall provide. Such Secretary shall issue
24 guidance within 30 days after the date of the enactment
25 of this Act providing for a one-time submission of claims
26 covering periods described in the preceding sentence. Such

1 guidance shall provide for a 180-day period for the sub-
 2 mission of such claims (in such manner as prescribed by
 3 such Secretary) to begin not later than 30 days after such
 4 guidance is issued. Such claims shall be paid by such Sec-
 5 retary not later than 60 days after receipt. If such Sec-
 6 retary has not paid pursuant to a claim filed under this
 7 subsection within 60 days after the date of the filing of
 8 such claim, the claim shall be paid with interest from such
 9 date determined by using the overpayment rate and meth-
 10 od under section 6621 of such Code.

11 (c) CLARIFICATION OF RULES REGARDING ALTER-
 12 NATIVE FUEL MIXTURE CREDIT.—

13 (1) IN GENERAL.—Paragraph (2) of section
 14 6426(e) is amended by striking “mixture of alter-
 15 native fuel” and inserting “mixture of alternative
 16 fuel (other than a fuel described in subparagraph
 17 (A), (C), or (F) of subsection (d)(2))”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by this subsection shall apply to—

20 (A) fuel sold or used on or after the date
 21 of the enactment of this Act, and

22 (B) fuel sold or used before such date of
 23 enactment, but only to the extent that credits
 24 and claims of credit under section 6426(e) of
 25 the Internal Revenue Code of 1986 with respect

1 to such sale or use have not been paid or al-
 2 lowed as of such date.

3 **SEC. 117. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**
 4 **ENTERTAINMENT COMPLEXES.**

5 (a) IN GENERAL.—Section 168(i)(15)(D) is amended
 6 by striking “December 31, 2017” and inserting “Decem-
 7 ber 31, 2019”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to property placed in service after
 10 December 31, 2017.

11 **SEC. 118. ACCELERATED DEPRECIATION FOR BUSINESS**
 12 **PROPERTY ON INDIAN RESERVATION.**

13 (a) IN GENERAL.—Section 168(j)(9) is amended by
 14 striking “December 31, 2017” and inserting “December
 15 31, 2019”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to property placed in service after
 18 December 31, 2017.

19 **SEC. 119. EXPENSING RULES FOR CERTAIN PRODUCTIONS.**

20 (a) IN GENERAL.—Section 181(g) is amended by
 21 striking “December 31, 2017” and inserting “December
 22 31, 2019”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall apply to productions commencing after
 25 December 31, 2017.

1 **SEC. 120. INDIAN EMPLOYMENT CREDIT.**

2 (a) IN GENERAL.—Section 45A(f) is amended by
3 striking “December 31, 2017” and inserting “December
4 31, 2019”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2017.

8 **SEC. 121. MINE RESCUE TEAM TRAINING CREDIT.**

9 (a) IN GENERAL.—Section 45N(e) is amended by
10 striking “December 31, 2017” and inserting “December
11 31, 2019”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to taxable years beginning after
14 December 31, 2017.

15 **SEC. 122. EXCLUSION FROM GROSS INCOME OF DISCHARGE**
16 **OF QUALIFIED PRINCIPAL RESIDENCE IN-**
17 **DEBTEDNESS.**

18 (a) IN GENERAL.—Section 108(a)(1)(E) is amended
19 by striking “January 1, 2018” each place it appears and
20 inserting “January 1, 2020”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to discharges of indebtedness after
23 December 31, 2017.

1 **SEC. 123. TREATMENT OF MORTGAGE INSURANCE PRE-**
 2 **MIUMS AS QUALIFIED RESIDENCE INTEREST.**

3 (a) IN GENERAL.—Section 163(h)(3)(E)(iv)(I) is
 4 amended by striking “December 31, 2017” and inserting
 5 “December 31, 2019”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to amounts paid or accrued after
 8 December 31, 2017.

9 **SEC. 124. DEDUCTION OF QUALIFIED TUITION AND RE-**
 10 **LATED EXPENSES.**

11 (a) IN GENERAL.—Section 222(e) is amended by
 12 striking “December 31, 2017” and inserting “December
 13 31, 2019”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 2017.

17 **SEC. 125. EXTENSION OF EMPOWERMENT ZONE TAX INCEN-**
 18 **TIVES.**

19 (a) IN GENERAL.—Section 1391(d)(1)(A)(i) is
 20 amended by striking “December 31, 2017” and inserting
 21 “December 31, 2019”.

22 (b) TREATMENT OF CERTAIN TERMINATION DATES
 23 SPECIFIED IN NOMINATIONS.—In the case of a designa-
 24 tion of an empowerment zone the nomination for which
 25 included a termination date which is contemporaneous
 26 with the date specified in subparagraph (A)(i) of section

1 1391(d)(1) of the Internal Revenue Code of 1986 (as in
 2 effect before the enactment of this Act), subparagraph (B)
 3 of such section shall not apply with respect to such des-
 4 ignation if, after the date of the enactment of this section,
 5 the entity which made such nomination amends the nomi-
 6 nation to provide for a new termination date in such man-
 7 ner as the Secretary of the Treasury (or the Secretary's
 8 designee) may provide.

9 (c) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall apply to taxable years beginning after
 11 December 31, 2017.

12 **SEC. 126. AMERICAN SAMOA ECONOMIC DEVELOPMENT**
 13 **CREDIT.**

14 (a) IN GENERAL.—Section 119(d) of division A of
 15 the Tax Relief and Health Care Act of 2006 is amended—

16 (1) by striking “January 1, 2018” each place
 17 it appears and inserting “January 1, 2020”,

18 (2) by striking “first 12 taxable years” in para-
 19 graph (1) and inserting “first 14 taxable years”,

20 (3) by striking “first 6 taxable years” in para-
 21 graph (2) and inserting “first 8 taxable years”, and

22 (4) by adding at the end the following flush
 23 sentence:

24 “In the case of a corporation described in subsection
 25 (a)(2), the Internal Revenue Code of 1986 shall be applied

1 and administered without regard to the amendments made
 2 by section 401(d)(1) of the Tax Technical Corrections Act
 3 of 2018.”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2017.

7 **Subtitle B—Provisions Expiring in** 8 **2019**

9 **SEC. 151. TEMPORARY REDUCTION IN MEDICAL EXPENSE** 10 **DEDUCTION FLOOR.**

11 (a) IN GENERAL.—Section 213(f) is amended to read
 12 as follows:

13 “(f) SPECIAL RULE.—In the case of taxable years be-
 14 ginning before January 1, 2020, subsection (a) shall be
 15 applied by substituting ‘7.5 percent’ for ‘10 percent’.”.

16 (b) ALTERNATIVE MINIMUM TAX.—Section
 17 56(b)(1)(B) is amended by striking “January 1, 2019”
 18 and inserting “January 1, 2020”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years ending after De-
 21 cember 31, 2018.

1 **SEC. 152. EXTENSION OF OIL SPILL LIABILITY TRUST FUND**

2 **RATE.**

3 (a) IN GENERAL.—Section 4611(f)(2) is amended by
4 striking “December 31, 2018” and inserting “December
5 31, 2019”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply on and after the first day of the
8 first calendar month beginning after the date of the enact-
9 ment of this Act.

10 **SEC. 153. BLACK LUNG LIABILITY TRUST FUND EXCISE TAX.**

11 (a) IN GENERAL.—Section 4121(e)(2)(A) is amended
12 by striking “December 31, 2018” and inserting “Decem-
13 ber 31, 2019”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply on and after the first day of the
16 first calendar month beginning after the date of the enact-
17 ment of this Act.

18 **TITLE II—DISASTER TAX RELIEF**

19 **SEC. 201. DEFINITIONS.**

20 For purposes of this title—

21 (1) QUALIFIED DISASTER AREA.—

22 (A) IN GENERAL.—The term “qualified
23 disaster area” means any area with respect to
24 which a major disaster was declared after Janu-
25 ary 1, 2018, and before March 1, 2019, by the
26 President under section 401 of the Robert T.

1 Stafford Disaster Relief and Emergency Assist-
2 ance Act if the incident period of the disaster
3 with respect to which such declaration is made
4 begins before January 1, 2019.

5 (B) EXCEPTION.—Such term shall not in-
6 clude the California wildfire disaster area (as
7 defined in section 20101 of subdivision 2 of di-
8 vision B of the Bipartisan Budget Act of 2018).

9 (2) QUALIFIED DISASTER ZONE.—The term
10 “qualified disaster zone” means that portion of any
11 qualified disaster area which was determined by the
12 President after January 1, 2018, and before March
13 1, 2019, to warrant individual or individual and
14 public assistance from the Federal Government
15 under the Robert T. Stafford Disaster Relief and
16 Emergency Assistance Act by reason of the qualified
17 disaster with respect to such disaster area.

18 (3) QUALIFIED DISASTER.—The term “quali-
19 fied disaster” means, with respect to any qualified
20 disaster area, the disaster by reason of which a
21 major disaster was declared with respect to such
22 area.

23 (4) INCIDENT PERIOD.—The term “incident pe-
24 riod” means, with respect to any qualified disaster,
25 the period specified by the Federal Emergency Man-

1 agement Agency as the period during which such
 2 disaster occurred (except that for purposes of this
 3 title such period shall not be treated as beginning
 4 before January 1, 2018, or ending after December
 5 31, 2018).

6 **SEC. 202. SPECIAL DISASTER-RELATED RULES FOR USE OF**
 7 **RETIREMENT FUNDS.**

8 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
 9 MENT PLANS.—

10 (1) IN GENERAL.—Section 72(t) of the Internal
 11 Revenue Code of 1986 shall not apply to any quali-
 12 fied disaster distribution.

13 (2) AGGREGATE DOLLAR LIMITATION.—

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

20 (i) \$100,000, over

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

24 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
 25

(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 made with respect to each qualified disaster.

(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

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

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

plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) TREATMENT OF REPAYMENTS OF 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 any distribution from an eligible retirement plan made—

(i) on or after the first day of the incident period of a qualified disaster and

1 before the date which is 180 days after the
 2 date of the enactment of this Act, and

3 (ii) to an individual whose principal
 4 place of abode at any time during the inci-
 5 dent period of such qualified disaster is lo-
 6 cated in the qualified disaster area with re-
 7 spect to such qualified disaster and who
 8 has sustained an economic loss by reason
 9 of such qualified disaster.

10 (B) ELIGIBLE RETIREMENT PLAN.—The
 11 term “eligible retirement plan” shall have the
 12 meaning given such term by section
 13 402(c)(8)(B) of the Internal Revenue Code of
 14 1986.

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

17 (A) IN GENERAL.—In the case of any
 18 qualified disaster distribution, unless the tax-
 19 payer elects not to have this paragraph apply
 20 for any taxable year, any amount required to be
 21 included in gross income for such taxable year
 22 shall be so included ratably over the 3-taxable-
 23 year period beginning with such taxable year.

24 (B) SPECIAL RULE.—For purposes of sub-
 25 paragraph (A), rules similar to the rules of sub-

paragraph (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 REQUIREMENTS.—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 1 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, 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) which was to be used to purchase or construct a principal residence in a qualified disaster area, but which was not so used on account of the qualified disaster with respect to such area, and

1 (C) which was received during the period
 2 beginning on the date which is 180 days before
 3 the first day of the incident period of such
 4 qualified disaster and ending on the date which
 5 is 30 days after the last day of such incident
 6 period.

7 (3) APPLICABLE PERIOD.—For purposes of this
 8 subsection, the term “applicable period” means, in
 9 the case of a principal residence in a qualified dis-
 10 aster area with respect to any qualified disaster, the
 11 period beginning on the first day of the incident pe-
 12 riod of such qualified disaster and ending on the
 13 date which is 180 days after the date of the enact-
 14 ment of this Act.

15 (c) LOANS FROM QUALIFIED PLANS.—

16 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
 17 ED AS DISTRIBUTIONS.—In the case of any loan
 18 from a qualified employer plan (as defined under
 19 section 72(p)(4) of the Internal Revenue Code of
 20 1986) to a qualified individual made during the 180-
 21 day period beginning on the date of the enactment
 22 of this Act—

23 (A) clause (i) of section 72(p)(2)(A) of
 24 such Code shall be applied by substituting
 25 “\$100,000” for “\$50,000”, and

1 (B) clause (ii) of such section shall be ap-
2 plied by substituting “the present value of the
3 nonforfeitable accrued benefit of the employee
4 under the plan” for “one-half of the present
5 value of the nonforfeitable accrued benefit of
6 the employee under the plan”.

7 (2) DELAY OF REPAYMENT.—In the case of a
8 qualified individual (with respect to any qualified
9 disaster) with an outstanding loan (on or after the
10 first day of the incident period of such qualified dis-
11 aster) from a qualified employer plan (as defined in
12 section 72(p)(4) of the Internal Revenue Code of
13 1986)—

14 (A) if the due date pursuant to subpara-
15 graph (B) or (C) of section 72(p)(2) of such
16 Code for any repayment with respect to such
17 loan occurs during the period beginning on the
18 first day of the incident period of such qualified
19 disaster and ending on the date which is 180
20 days after the last day of such incident period,
21 such due date shall be delayed for 1 year (or,
22 if later, until the date which is 180 days after
23 the date of the enactment of this Act),

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 subparagraph (A) and any interest accru-
 3 ing 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) of this para-
 8 graph shall be disregarded.

9 (3) QUALIFIED INDIVIDUAL.—For purposes of
 10 this subsection, the term “qualified individual”
 11 means any individual—

12 (A) whose principal place of abode at any
 13 time during the incident period of any qualified
 14 disaster is located in the qualified disaster area
 15 with respect to such qualified disaster, and

16 (B) who has sustained an economic loss by
 17 reason of such qualified disaster.

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

20 (1) IN GENERAL.—If this subsection applies to
 21 any amendment to any plan or annuity contract,
 22 such plan or contract shall be treated as being oper-
 23 ated in accordance with the terms of the plan during
 24 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 plan
 10 or contract amendment were in effect, and
 11 (ii) such plan or contract amendment
 12 applies retroactively for such period.

13 **SEC. 203. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
 14 **AFFECTED BY QUALIFIED DISASTERS.**

15 (a) IN GENERAL.—For purposes of section 38 of the
 16 Internal Revenue Code of 1986, in the case of an eligible
 17 employer, the 2018 qualified disaster employee retention
 18 credit shall be treated as a credit listed at the end of sub-
 19 section (b) of such section. For purposes of this section,
 20 the 2018 qualified disaster employee retention credit for
 21 any taxable year is an amount equal to 40 percent of the
 22 qualified wages with respect to each eligible employee of
 23 such employer for such taxable year. The amount of quali-
 24 fied wages with respect to any employee which may be
 25 taken into account under this section by the employer for

1 any taxable year shall not exceed \$6,000 (reduced by the
 2 amount of qualified wages with respect to such employee
 3 which may be so taken into account for any prior taxable
 4 year).

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

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

8 (A) which conducted an active trade or
 9 business in a qualified disaster zone at any time
 10 during the incident period of the qualified dis-
 11 aster with respect to such qualified disaster
 12 zone, and

13 (B) with respect to whom the trade or
 14 business described in subparagraph (A) is inop-
 15 erable at any time on or after the first day of
 16 the incident period of such qualified disaster,
 17 and before January 1, 2019, as a result of
 18 damage sustained by reason of such qualified
 19 disaster.

20 (2) ELIGIBLE EMPLOYEE.—The term “eligible
 21 employee” means with respect to an eligible em-
 22 ployer an employee whose principal place of employ-
 23 ment with such eligible employer (determined imme-
 24 diately before the qualified disaster referred to in

paragraph (1)) was in the qualified disaster zone referred to in such paragraph.

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

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

(B) the date which is 150 days after the last day of the incident period of the qualified disaster referred to in paragraph (1).

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

1 (c) CERTAIN RULES TO APPLY.—For purposes of
 2 this section, rules similar to the rules of sections 51(i)(1),
 3 52, and 280C(a), of the Internal Revenue Code of 1986,
 4 shall apply.

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

11 **SEC. 204. OTHER DISASTER-RELATED TAX RELIEF PROVI-**
 12 **SIONS.**

13 (a) TEMPORARY INCREASE IN LIMITATION ON
 14 QUALIFIED CONTRIBUTIONS.—

15 (1) SUSPENSION OF CURRENT LIMITATION.—
 16 Except as otherwise provided in paragraph (2),
 17 qualified contributions shall be disregarded in apply-
 18 ing subsections (b) and (d) of section 170 of the In-
 19 ternal Revenue Code of 1986.

20 (2) APPLICATION OF INCREASED LIMITATION.—
 21 For purposes of section 170 of the Internal Revenue
 22 Code of 1986—

23 (A) INDIVIDUALS.—In the case of an indi-
 24 vidual—

1 (i) LIMITATION.—Any qualified con-
 2 tribution shall be allowed as a deduction
 3 only to the extent that the aggregate of
 4 such contributions does not exceed the ex-
 5 cess of the taxpayer's contribution base (as
 6 defined in subparagraph (H) of section
 7 170(b)(1) of such Code) over the amount
 8 of all other charitable contributions allowed
 9 under section 170(b)(1) of such Code.

10 (ii) CARRYOVER.—If the aggregate
 11 amount of qualified contributions made in
 12 the contribution year (within the meaning
 13 of section 170(d)(1) of such Code) exceeds
 14 the limitation of clause (i), such excess
 15 shall be added to the excess described in
 16 section 170(b)(1)(G)(ii).

17 (B) CORPORATIONS.—In the case of a cor-
 18 poration—

19 (i) LIMITATION.—Any qualified con-
 20 tribution shall be allowed as a deduction
 21 only to the extent that the aggregate of
 22 such contributions does not exceed the ex-
 23 cess of the taxpayer's taxable income (as
 24 determined under paragraph (2) of section
 25 170(b) of such Code) over the amount of

all other charitable contributions allowed under such paragraph.

(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(2) of such Code) exceeds the limitation of clause (i), such excess shall be appropriately taken into account under section 170(d)(2) subject to the limitations thereof.

(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 2018 in cash to an organization described in section 170(b)(1)(A) of such Code, and

(II) is made for relief efforts in one or more qualified disaster areas,

(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of sec-

tion 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

1 excess of qualified disaster-related personal casualty
 2 losses over personal casualty gains (as defined in
 3 section 165(h)(3)(A) of the Internal Revenue Code
 4 of 1986).

5 (3) QUALIFIED DISASTER-RELATED PERSONAL
 6 CASUALTY LOSSES.—For purposes of this sub-
 7 section, the term “qualified disaster-related personal
 8 casualty losses” means losses described in section
 9 165(c)(3) of the Internal Revenue Code of 1986
 10 which arise in a qualified disaster area on or after
 11 the first day of the incident period of the qualified
 12 disaster to which such area relates, and which are
 13 attributable to such qualified disaster.

14 (c) SPECIAL RULE FOR DETERMINING EARNED IN-
 15 COME.—

16 (1) IN GENERAL.—In the case of a qualified in-
 17 dividual, if the earned income of the taxpayer for the
 18 applicable taxable year is less than the earned in-
 19 come of the taxpayer for the preceding taxable year,
 20 the credits allowed under sections 24(d) and 32 of
 21 the Internal Revenue Code of 1986 may, at the elec-
 22 tion of the taxpayer, be determined by sub-
 23 stituting—

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

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

3 (2) QUALIFIED INDIVIDUAL.—For purposes of
4 this subsection, the term “qualified individual”
5 means any individual whose principal place of abode
6 at any time during the incident period of any quali-
7 fied disaster was located—

8 (A) in the qualified disaster zone with re-
9 spect to such qualified disaster, or

10 (B) in the qualified disaster area with re-
11 spect to such qualified disaster (but outside the
12 qualified disaster zone with respect to such
13 qualified disaster) and such individual was dis-
14 placed from such principal place of abode by
15 reason of such qualified disaster.

16 (3) APPLICABLE TAXABLE YEAR.—The term
17 “applicable taxable year” means, with respect to any
18 qualified individual, any taxable year which includes
19 any portion of the incident period of the qualified
20 disaster to which the qualified disaster area referred
21 to in paragraph (2) relates.

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

1 (5) SPECIAL RULES.—

2 (A) APPLICATION TO JOINT RETURNS.—

3 For purposes of paragraph (1), in the case of
4 a joint return for an applicable taxable year—

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

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

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

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

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

1 **SEC. 205. TREATMENT OF CERTAIN POSSESSIONS.**

2 (a) PAYMENTS TO GUAM AND THE COMMONWEALTH
3 OF THE NORTHERN MARIANA ISLANDS.—In the case of
4 Guam and the Commonwealth of the Northern Mariana
5 Islands, the Secretary of the Treasury shall pay to each
6 such possession amounts equal to the loss in revenues (if
7 any) to that possession by reason of the application of the
8 provisions of this title. Such amounts shall be determined
9 by the Secretary of the Treasury based on information
10 provided by the government of the respective possession.

11 (b) PAYMENTS TO AMERICAN SAMOA.—The Sec-
12 retary of the Treasury shall pay to American Samoa
13 amounts estimated by the Secretary of the Treasury as
14 being equal to the aggregate benefits (if any) that would
15 have been provided to residents of American Samoa by
16 reason of the provisions of this title if American Samoa
17 had in effect a tax system under which the income tax
18 liability of residents of American Samoa were determined
19 by reference to the income tax laws of the United States.
20 The preceding sentence shall not apply unless American
21 Samoa has a plan, which has been approved by the Sec-
22 retary of the Treasury, under which it will promptly dis-
23 tribute such payments to its residents.

24 (c) TREATMENT OF PAYMENTS.—For purposes of
25 section 1324 of title 31, United States Code, the payments
26 under this section shall be treated in the same manner

- 1 as a refund due from a credit provision referred to in sub-
- 2 section (b)(2) of such section.

Calendar No. 28

116TH CONGRESS
1ST Session

S. 617

A BILL

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, to provide disaster tax relief, and for other purposes.

MARCH 4, 2019

Read the second time and placed on the calendar