

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5366
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Doug LaMalfa Federal
3 Disaster Tax Relief Certainty Act”.

**4 SEC. 2. CODIFICATION AND EXTENSION OF RULES FOR
5 CASUALTY LOSSES ARISING FROM MAJOR
6 DISASTERS.**

7 (a) IN GENERAL.—Section 165(h) of the Internal
8 Revenue Code of 1986 is amended by adding at the end
9 the following new paragraph:

10 “(6) SPECIAL RULE FOR QUALIFIED NET DIS-
11 ASTER LOSSES.—

12 “(A) IN GENERAL.—If an individual has a
13 qualified net disaster loss for any taxable year,
14 the amount determined under paragraph
15 (2)(A)(ii) shall be the sum of—

16 “(i) such qualified net disaster loss,
17 and

1 “(ii) so much of the excess referred to
2 in the matter preceding clause (i) of para-
3 graph (2)(A) (reduced by the amount in
4 clause (i) of this subparagraph) as exceeds
5 10 percent of the adjusted gross income of
6 the individual.

7 “(B) QUALIFIED NET DISASTER LOSS.—
8 For purposes of subparagraph (A), the term
9 ‘qualified net disaster loss’ means the excess (if
10 any) of—

11 “(i) qualified disaster-related personal
12 casualty losses, over

13 “(ii) personal casualty gains reduced
14 by the portion of such gains taken into ac-
15 count under paragraph (5)(B)(i).

16 “(C) QUALIFIED DISASTER-RELATED PER-
17 SONAL CASUALTY LOSSES.—For purposes of
18 this paragraph—

19 “(i) IN GENERAL.—The term ‘quali-
20 fied disaster-related personal casualty
21 losses’ means losses described in subsection
22 (c)(3) (determined after application of
23 paragraph (1)) which arise in a qualified
24 disaster area on or after the first day of
25 the incident period of the qualified disaster

1 to which such area relates, and which are
2 attributable to such disaster.

3 “(ii) QUALIFIED DISASTER AREA.—
4 The term ‘qualified disaster area’ means
5 any area with respect to which a major
6 disaster has been declared by the President
7 under section 401 of the Robert T. Staf-
8 ford Disaster Relief and Emergency Assist-
9 ance Act if the incident period of the dis-
10 aster with respect to which such declara-
11 tion is made begins on or after December
12 28, 2019, and before January 1, 2027.

13 “(iii) QUALIFIED DISASTER.—The
14 term ‘qualified disaster’ means, with re-
15 spect to any qualified disaster area, the
16 disaster by reason of which a major dis-
17 aster was declared with respect to such
18 area.

19 “(iv) INCIDENT PERIOD.—The term
20 ‘incident period’ means, with respect to
21 any qualified disaster, the period specified
22 by the Federal Emergency Management
23 Agency as the period during which such
24 disaster occurred.”.

1 (b) DOLLAR LIMITATION.—Section 165(h)(1) of such
2 Code is amended by striking “\$500 (\$100 for taxable
3 years beginning after December 31, 2009)” and inserting
4 “\$100 (\$500 in the case of any qualified disaster-related
5 personal casualty losses (as defined in paragraph (6)(C))”.

6 (c) DEDUCTION ALLOWED TO INDIVIDUALS WHO DO
7 NOT ELECT TO ITEMIZE DEDUCTIONS.—Section 63(b) of
8 such Code is amended—

9 (1) by striking “and” at the end of paragraph
10 (6) and inserting a comma,

11 (2) by striking the period at the end of para-
12 graph (7) and inserting “, and”, and

13 (3) by adding at the end the following new
14 paragraph:

15 “(8) so much of the deduction allowed by sec-
16 tion 165(a) as is attributable to the qualified net
17 disaster loss (as defined in section 165(h)(6)(B)).”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to taxable years beginning
21 after December 31, 2024.

22 (2) COORDINATION WITH SUPERCEDED PROVI-
23 SIONS.—Section 304(b) of the Taxpayer Certainty
24 and Disaster Tax Relief Act of 2020 (division EE of
25 Public Law 116–260) and section 70438 of Public

1 Law 119–21 shall not apply to any taxable year be-
2 ginning after December 31, 2024.

3 **SEC. 3. CODIFICATION AND EXTENSION OF EXCLUSION**
4 **FROM GROSS INCOME OF COMPENSATION**
5 **FOR LOSSES OR DAMAGES RESULTING FROM**
6 **CERTAIN WILDFIRES.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting before section 140 the following new section:
10 **“SEC. 139M. COMPENSATION FOR LOSSES OR DAMAGES RE-**
11 **SULTING FROM CERTAIN WILDFIRES.**

12 “(a) IN GENERAL.—Gross income shall not include
13 any amount received by an individual as a qualified wild-
14 fire relief payment.

15 “(b) QUALIFIED WILDFIRE RELIEF PAYMENT.—For
16 purposes of this section—

17 “(1) IN GENERAL.—The term ‘qualified wildfire
18 relief payment’ means any amount received by or on
19 behalf of an individual as compensation for losses,
20 expenses, or damages (including compensation for
21 additional living expenses, lost wages (other than
22 compensation for lost wages paid by the employer
23 which would have otherwise paid such wages), per-
24 sonal injury, death, or emotional distress) incurred
25 as a result of a qualified wildfire disaster, but only

1 to the extent the losses, expenses, or damages com-
2 pensated by such payment are not compensated for
3 by insurance or otherwise.

4 “(2) QUALIFIED WILDFIRE DISASTER.—The
5 term ‘qualified wildfire disaster’ means any Feder-
6 ally declared disaster (as defined in section
7 165(i)(5)(A)) declared after December 31, 2014,
8 and before January 1, 2027, as a result of any for-
9 est or range fire.

10 “(c) DENIAL OF DOUBLE BENEFIT.—Notwith-
11 standing any other provision of this title—

12 “(1) no deduction or credit shall be allowed (to
13 the individual for whose benefit a qualified wildfire
14 relief payment is made) for, or by reason of, any ex-
15 penditure to the extent of the amount excluded
16 under this section with respect to such expenditure,
17 and

18 “(2) no increase in the basis or adjusted basis
19 of any property shall result from any amount ex-
20 cluded under this section with respect to such prop-
21 erty.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part III of subchapter B of chapter 1 of such Code
24 is amended by inserting before the item related to section
25 140 the following new item:

“Sec. 139M. Compensation for losses or damages resulting from certain wildfires.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments received in taxable
3 years beginning after December 31, 2025.

