

116TH CONGRESS
1ST SESSION

S. 527

To amend the Internal Revenue Code of 1986 to modify the earned income tax credit to account for the amount by which economic growth has outpaced income growth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2019

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to modify the earned income tax credit to account for the amount by which economic growth has outpaced income growth, 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 “Cost-of-Living Refund
5 Act of 2019”.

6 **SEC. 2. MODIFICATION OF EARNED INCOME TAX CREDIT.**

7 (a) IN GENERAL.—

(1) INCREASE IN CREDIT PERCENTAGE.—The table in section 32(b)(1) of the Internal Revenue Code of 1986 is amended—

(A) by striking “7.65” in the second column (relating to credit percentage) and inserting “30”;

(B) by striking “7.65” in the third column (relating to phaseout percentage) and inserting “15.98”;

(C) by striking “34” and inserting “65.28”;

(D) by striking “40” and inserting “76.80”; and

(E) by striking “45” and inserting “86.40”.

(2) EARNED INCOME AMOUNT AND PHASEOUT AMOUNT.—

(A) IN GENERAL.—Subparagraph (A) of section 32(b)(2) of such Code is amended by striking “Subject to subparagraph (B), the earned income amount and the phaseout amount” and inserting “Subject to subparagraph (B)—

“(i) PHASEOUT AMOUNT.—The phaseout amount is \$18,340.

1 “(ii) EARNED INCOME AMOUNT.—The
2 earned income amount”.

3 (B) CREDIT PHASE-IN ENDS.—Section
4 32(b)(2)(A)(ii) of such Code, as amended by
5 subparagraph (A), is further amended by strik-
6 ing the table and inserting the following:

“In the case of an eligible individual with:	The earned income amount is:
1 qualifying child	\$10,000
2 or more qualifying children	\$14,040
No qualifying children	\$10,000.”.

7 (b) ELIGIBILITY AGE.—Subclause (II) of section
8 32(c)(1)(A)(ii) of the Internal Revenue Code of 1986 is
9 amended by striking “25” and inserting “21”.

10 (c) CONFORMING AND TECHNICAL AMENDMENT.—
11 Paragraph (1) of section 32(j) of the Internal Revenue
12 Code of 1986 is amended to read as follows:

13 “(1) IN GENERAL.—In the case of any taxable
14 year beginning after 2019, each of the dollar
15 amounts in subsections (b)(2) and (i)(1) shall be in-
16 creased by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year in which the taxable year begins, deter-
21 mined by substituting in subparagraph (A)(ii)
22 thereof—

1 “(i) in the case of amounts in sub-
 2 section (b)(2)(A), by substituting ‘calendar
 3 year 2018’ for ‘calendar year 2016’, and

4 “(ii) in the case of amounts in sub-
 5 section (i)(1), by substituting ‘calendar
 6 year 1995’ for ‘calendar year 2016’.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 2018.

10 **SEC. 3. EXPANSION OF EARNED INCOME TAX CREDIT.**

11 (a) INCLUSION OF INDIVIDUALS WITH QUALIFYING
 12 DEPENDENTS.—

13 (1) IN GENERAL.—Section 32(c)(1) of the In-
 14 ternal Revenue Code of 1986 is amended—

15 (A) in subparagraph (A), by striking
 16 “qualifying child” each place such term appears
 17 and inserting “qualifying dependent”, and

18 (B) by striking subparagraphs (B) and (F)
 19 and by redesignating subparagraphs (C), (D),
 20 and (E) as subparagraphs (B), (C), and (D),
 21 respectively.

22 (2) QUALIFYING DEPENDENT DEFINED.—Sec-
 23 tion 32(c) of such Code is amended by redesignating
 24 paragraphs (3) and (4) as paragraphs (4) and (5),

1 respectively, and by inserting after paragraph (2)
2 the following:

3 “(3) QUALIFYING DEPENDENT.—

4 “(A) IN GENERAL.—The term ‘qualifying
5 dependent’ means, with respect to a taxable
6 year—

7 “(i) a qualifying child,

8 “(ii) a dependent for whom a deduc-
9 tion is allowable under section 151 who—

10 “(I) has attained the age of 65
11 before the close of the taxable year, or

12 “(II) is an individual described in
13 section 21(b)(1)(B), or

14 “(iii) an individual described in sec-
15 tion 21(b)(1)(C).

16 “(B) IDENTIFICATION REQUIREMENTS.—

17 No credit shall be allowed under this section
18 with respect to a qualifying dependent unless
19 the taxpayer includes the name, age, and TIN
20 of the individual on the return of tax for the
21 taxable year.

22 “(C) PLACE OF ABODE.—The term ‘quali-
23 fying dependent’ shall not include an individual
24 unless such individual has a principal place of

abode in the United States for more than one-half of such taxable year.”.

(3) CONFORMING AMENDMENTS.—

(A) The tables in paragraphs (1) and (2) of section 32(b) of such Code are each amended—

(i) by striking “qualifying child” each place it appears and inserting “qualifying dependent”, and

(ii) by striking “qualifying children” each place it appears and inserting “qualifying dependents”.

(B) Section 32(c)(4) of such Code, as redesignated by this Act, is amended by striking subparagraphs (C) and (D).

(C) Section 32(m) of such Code is amended by striking “subsections (c)(1)(E) and (c)(3)(D)” and inserting “subsections (c)(1)(D) and (c)(3)(B)”.

(b) INCLUSION OF QUALIFYING STUDENTS.—

(1) IN GENERAL.—Section 32(c)(1)(A) of such Code is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii)(III) and inserting “, or”, and by inserting after clause (ii)(III) the following new clause:

1 “(iii) any individual who is a quali-
 2 fying student.”.

3 (2) QUALIFYING STUDENT DEFINED.—Section
 4 32(c)(1) of such Code, as amended by subsection
 5 (a), is further amended by adding at the end the fol-
 6 lowing new subparagraph:

7 “(E) QUALIFYING STUDENT.—

8 “(i) IN GENERAL.—The term ‘quali-
 9 fying student’ means, with respect to a
 10 taxable year, an individual who is an eligi-
 11 ble student (as defined in section
 12 25A(b)(3)) with respect to an institution of
 13 higher education (as defined in section 101
 14 of the Higher Education Act of 1965)
 15 who—

16 “(I)(aa) has qualified for a Fed-
 17 eral Pell Grant with respect to the
 18 academic year beginning in such tax-
 19 able year, or

20 “(bb) whose modified adjusted
 21 gross income (as defined in section
 22 24(b)(1)) is less than 250 percent of
 23 the poverty line (defined in section
 24 529A(b)(7)(B)) as for the size of the

1 family involved for the taxable year,
 2 and

3 “(II) is not a dependent for
 4 whom a deduction is allowable under
 5 section 151 to another taxpayer for
 6 any taxable year beginning in the
 7 same calendar year as such taxable
 8 year.

9 “(ii) FAMILY SIZE.—For purposes of
 10 this subparagraph, in determining the pov-
 11 erty line applicable to the taxpayer, the
 12 family size with respect to such taxpayer
 13 shall be equal to the number of individuals
 14 for whom such taxpayer is allowed a de-
 15 duction under section 151 for the taxable
 16 year.”.

17 (3) CONFORMING AMENDMENT.—Section
 18 32(c)(1)(A)(ii) of such Code is amended by inserting
 19 “(other than a qualifying student)” after “any other
 20 individual”.

21 (c) MINIMUM CREDIT FOR STUDENTS AND FOR INDIVIDUALS WITH CERTAIN QUALIFYING DEPENDENTS.—
 22 Section 32(a) of such Code is amended by adding at the
 23 end the following new paragraph:
 24

1 “(3) MINIMUM CREDIT FOR STUDENTS AND
2 FOR INDIVIDUALS WITH CERTAIN QUALIFYING DE-
3 PENDENTS.—

4 “(A) IN GENERAL.—In the case of an eligi-
5 ble individual who is a qualifying student or
6 who has a specified dependent for the taxable
7 year, the amount determined under paragraph
8 (1) (before the application of paragraph (2))
9 and the amount determined under paragraph
10 (2)(A) shall not be less than \$1,200.

11 “(B) SPECIFIED DEPENDENT.—For pur-
12 poses of this paragraph, the term ‘specified de-
13 pendent’ means any qualifying dependent (other
14 than a qualifying child who has attained the
15 age of 7 before the close of the taxable year).”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 4. ADVANCE PAYMENT OF EARNED INCOME CREDIT.**

20 (a) IN GENERAL.—Chapter 25 of subtitle C of the
21 Internal Revenue Code of 1986 is amended by inserting
22 after section 3506 the following new section:

23 **“SEC. 3507. ADVANCE PAYMENT OF EARNED INCOME CRED-**
24 **IT.**

25 “(a) ADVANCE PAYMENT.—

1 “(1) IN GENERAL.—An employer making pay-
2 ment of wages to an employee with respect to whom
3 an eligibility certificate is in effect shall, at the time
4 of paying such wages for the payroll period elected
5 by the employee under paragraph (2), make an addi-
6 tional lump sum payment to such employee equal to
7 the earned income advance amount (except as pro-
8 vided in subsection (b)(1)(C)(ii)) of such employee.

9 “(2) PAYMENTS AVAILABLE AFTER 6 MONTHS
10 OF EMPLOYMENT DURING CALENDAR YEAR.—For
11 purposes of paragraph (1), an employee with respect
12 to whom an eligibility certificate is in effect for the
13 calendar year may elect to receive the earned income
14 advance amount at the same time as wages for any
15 payroll period which begins after the employee has
16 been paid wages by the employer for a period of not
17 less than 6 months during such calendar year.

18 “(b) ELIGIBILITY CERTIFICATE.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, an eligibility certificate is a statement sub-
21 mitted by an employee to the employer which—

22 “(A) certifies that the employee is eligible
23 to receive the credit provided by section 32 for
24 the taxable year,

1 “(B) certifies that the employee does not
2 have an eligibility certificate in effect for the
3 calendar year with respect to the payment of
4 wages by another employer, and

5 “(C) certifies that—

6 “(i) an eligibility certificate has not
7 been in effect for the spouse of the em-
8 ployee on any date during the calendar
9 year, or

10 “(ii) such a certificate is in effect for
11 the spouse of the employee, and the em-
12 ployee is eligible to receive only $\frac{1}{2}$ the
13 earned income advance amount otherwise
14 determined with respect to the employee.

15 “(2) EMPLOYER NOT RESPONSIBLE FOR
16 VERIFICATION.—For purposes of this section, an
17 employer shall not—

18 “(A) be required to verify any certification
19 made by an employee in the statement de-
20 scribed in paragraph (1), or

21 “(B) be held liable for any false claims or
22 statements made by an employee in regards to
23 such statement.

24 “(c) EARNED INCOME ADVANCE AMOUNT.—

25 “(1) DETERMINATION OF AMOUNT.—

1 “(A) IN GENERAL.—Subject to subpara-
 2 graph (B), the term ‘earned income advance
 3 amount’ means, with respect to any payroll pe-
 4 riod, the amount of the credit provided under
 5 section 32 as determined—

6 “(i) on the basis of the wages of the
 7 employee from the employer during such
 8 calendar year through such payroll period,
 9 and

10 “(ii) in accordance with tables issued
 11 by the Secretary.

12 “(B) LIMITATION.—For each calendar
 13 year, except as provided in subparagraph (C),
 14 the earned income advance amount shall not ex-
 15 ceed \$500.

16 “(C) ADJUSTMENT FOR INFLATION.—

17 “(i) IN GENERAL.—In the case of any
 18 taxable year beginning after 2021, the
 19 \$500 amount in subparagraph (B) shall be
 20 increased by an amount equal to—

21 “(I) such dollar amount, multi-
 22 plied by

23 “(II) the cost-of-living adjust-
 24 ment determined under section 1(f)(3)
 25 for the calendar year in which the tax-

1 able year begins determined by sub-
 2 stituting ‘calendar year 2020’ for ‘cal-
 3 endar year 2016’ in subparagraph
 4 (A)(ii) thereof.

5 “(ii) ROUNDING.—If any increase de-
 6 termined under paragraph (1) is not a
 7 multiple of \$10, such increase shall be
 8 rounded to the nearest multiple of \$10.

9 “(2) ARMED FORCES.—In the case of an em-
 10 ployee who is a member of the Armed Forces of the
 11 United States, the earned income advance amount
 12 shall be determined by taking into account the total
 13 wages of such employee, as determined for purposes
 14 of section 32.

15 “(3) ADVANCE AMOUNT TABLES.—For pur-
 16 poses of paragraph (1)(A)(ii), the tables issued by
 17 the Secretary shall be similar in form to the tables
 18 issued under section 3402 and, to the extent fea-
 19 sible, coordinated with such tables.

20 “(d) PAYMENTS TO BE TREATED AS PAYMENTS OF
 21 WITHHOLDING AND FICA TAXES.—

22 “(1) IN GENERAL.—Payments made by an em-
 23 ployer under subsection (a) to an employee—

24 “(A) shall not be treated as payment of
 25 compensation, and

1 “(B) shall be treated as made out of—

2 “(i) amounts required to be deducted
3 and withheld for the payroll period under
4 section 3401,

5 “(ii) amounts required to be deducted
6 for the payroll period under section 3102,
7 and

8 “(iii) amounts of the taxes imposed
9 for the payroll period under section 3111,
10 as if the employer had paid to the Secretary, on
11 the day on which the wages are paid to the em-
12 ployee, an amount equal to such payments.

13 “(2) ADVANCE PAYMENTS EXCEED TAXES
14 DUE.—In the case of any employer, if for any pay-
15 roll period the aggregate amount of earned income
16 advance payments exceeds the sum of the amounts
17 referred to in paragraph (1)(B), the employer shall
18 pay only so much of such earned income advance
19 payment as does not exceed such sum, and shall not
20 make any further advance payments to the employee
21 for the calendar year.

22 “(3) FAILURE TO MAKE ADVANCE PAY-
23 MENTS.—Failure to make any payment of an earned
24 income advance amount as required under this sec-
25 tion shall be treated as the failure at such time to

1 deduct and withhold under chapter 24 an amount
2 equal to the earned income advance amount.

3 “(e) SUBMISSION OF CERTIFICATE.—

4 “(1) EFFECTIVE PERIOD.—An eligibility certifi-
5 cate submitted to an employer at any time during
6 the calendar year shall continue in effect with re-
7 spect to the employee during such calendar year
8 until revoked by the employee or until another such
9 certificate takes effect under this section.

10 “(2) REQUIREMENT TO REVOKE CERTIFI-
11 CATE.—In the case of an employee who has sub-
12 mitted an eligibility certificate under this section and
13 subsequently becomes ineligible for the credit pro-
14 vided under section 32 for the taxable year, the em-
15 ployee shall, not later than 10 days after becoming
16 ineligible for such credit, submit to the employer a
17 revocation of such certificate.

18 “(3) FORM AND CONTENTS OF CERTIFICATE.—
19 Eligibility certificates shall be in such form and con-
20 tain such other information as the Secretary may by
21 regulations prescribe.

22 “(f) TAXPAYERS MAKING PRIOR FRAUDULENT OR
23 RECKLESS CLAIMS.—

1 “(1) IN GENERAL.—No earned income advance
2 amount shall be paid under this section for any tax-
3 able year in the disallowance period.

4 “(2) DISALLOWANCE PERIOD.—For purposes of
5 paragraph (1), the disallowance period is—

6 “(A) the period of 10 taxable years after
7 the most recent taxable year for which there
8 was a final determination that the taxpayer’s
9 claim of an earned income advance amount
10 under this section was due to fraud, and

11 “(B) the period of 2 taxable years after
12 the most recent taxable year for which there
13 was a final determination that the taxpayer’s
14 claim of an earned income advance amount
15 under this section was due to reckless or inten-
16 tional disregard of rules and regulations (but
17 not due to fraud).

18 “(g) TAXABLE YEAR.—The term ‘taxable year’
19 means the last taxable year of the employee under subtitle
20 A beginning in the calendar year in which the wages are
21 paid.

22 “(h) IRS NOTIFICATION.—The Internal Revenue
23 Service shall take such steps as may be appropriate to en-
24 sure that taxpayers who receive a refund of the credit

1 under section 32 are aware of the availability of earned
2 income advance amounts under this section.”.

3 (b) COORDINATION WITH ADVANCE PAYMENTS.—
4 Section 32 of the Internal Revenue Code of 1986 is
5 amended by inserting after subsection (f) the following
6 new subsection:

7 “(g) COORDINATION WITH ADVANCE PAYMENTS OF
8 EARNED INCOME CREDIT.—

9 “(1) RECAPTURE OF ADVANCE PAYMENTS.—If
10 any payment is made to the individual by an em-
11 ployer under section 3507 during any calendar year,
12 then the tax imposed by this chapter for the individ-
13 ual’s last taxable year beginning in such calendar
14 year shall be increased by the aggregate amount of
15 such payments.

16 “(2) RECONCILIATION OF PAYMENTS AD-
17 VANCED AND CREDIT ALLOWED.—Any increase in
18 tax under paragraph (1) shall not be treated as tax
19 imposed by this chapter for purposes of determining
20 the amount of any credit (other than the credit al-
21 lowed by subsection (a)) allowable under this part.”.

22 (c) FILING REQUIREMENT.—Section 6012(a) of the
23 Internal Revenue Code of 1986 is amended—

24 (1) in paragraph (7), by striking “and” at the
25 end,

1 (2) in paragraph (8), by adding “and” at the
2 end, and

3 (3) by inserting after paragraph (8) the fol-
4 lowing new paragraph:

5 “(9) Every individual who receives payments
6 during the calendar year in which the taxable year
7 begins under section 3507;”.

8 (d) RECEIPTS FOR EMPLOYEES.—Section 6051(a) of
9 the Internal Revenue Code of 1986 is amended by insert-
10 ing after paragraph (6) the following new paragraph:

11 “(7) the total amount paid to the employee
12 under section 3507 (relating to advance payment of
13 earned income credit),”.

14 (e) CLERICAL AMENDMENT.—The table of sections
15 for chapter 25 of subtitle C of the Internal Revenue Code
16 of 1986 is amended by inserting after the item relating
17 to section 3506 the following new item:

“Sec. 3507. Advance payment of earned income credit.”.

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2020.

○