116TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPORT
116–384

ECONOMIC MOBILITY ACT OF 2019

FEBRUARY 4, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NEAL, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3300]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3300) to amend the Internal Revenue Code of 1986 to provide tax relief for workers and families, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Economic Mobility Act of 2019".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—EARNED INCOME TAX CREDIT

Sec. 101. Strengthening the earned income tax credit for individuals with no qualifying children.
Sec. 102. Taxpayer eligible for childless earned income credit in case of qualifying children who fail to meet certain identification requirements.
Sec. 103. Credit allowed in case of certain separated spouses.
Sec. 104. Elimination of disqualified investment income test.
Sec. 105. Application of earned income tax credit in possessions of the United States.

TITLE II—CHILD TAX CREDIT

Sec. 201. Child tax credit fully refundable for 2019 and 2020.
Sec. 202. Payments to possessions.

TITLE III—DEPENDENT CARE ASSISTANCE

Sec. 301. Refundability and enhancement of child and dependent care tax credit.
Sec. 302. Increase in exclusion for employer-provided dependent care assistance.

TITLE IV—CERTAIN FRINGE BENEFIT EXPENSES

Sec. 401. Repeal of inclusion of certain fringe benefit expenses in unrelated business taxable income.

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—EARNED INCOME TAX CREDIT

SEC. 101. STRENGTHENING THE EARNED INCOME TAX CREDIT FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN.

(a) SPECIAL RULES FOR 2019 AND 2020.—Section 32 is amended by adding at the end the following new subsection:

"(n) SPECIAL RULES FOR INDIVIDUALS WITHOUT QUALIFYING CHILDREN.—In the case of any taxable year beginning in 2019 or 2020—

"(1) CREDIT ALLOWED FOR CERTAIN INDIVIDUALS OVER AGE 18.—

"(A) IN GENERAL.—Except in the case of a full-time student (or, in the case of a married individual, except if both the individual and the individual's spouse are full-time students), subsection (c)(1)(A)(ii)(II) shall be applied by substituting 'age 19' for 'age 25'.

"(B) FULL-TIME STUDENT.—For purposes of this paragraph, the term 'full-time student' means, with respect to a taxable year, an individual who is an eligible student (as defined in section 25A(b)(3)) during at least 5 calendar months during the taxable year.

"(2) INCREASE IN MAXIMUM AGE FOR CREDIT.—Subsection (c)(1)(A)(ii)(II) shall be applied by substituting 'age 66' for 'age 65'.

"(3) INCREASE IN CREDIT AND PHASEOUT PERCENTAGES.—The table contained in subsection (b)(1) shall be applied by substituting '15.3' for '7.65' each place it appears therein.

"(4) INCREASE IN EARNED INCOME AND PHASEOUT AMOUNTS.—

"(A) IN GENERAL.—The table contained in subsection (b)(2)(A) shall be applied—

"(i) by substituting '$9,570' for '$4,220', and

"(ii) by substituting '$11,310' for '$5,280'.

"(B) COORDINATION WITH INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning after 2019, the $9,570 and $11,310 amounts in subparagraph (A) shall each be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2018' for '2016' in subparagraph (A)(ii) thereof.

"(ii) ROUNDING.—If any increase under clause (i) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(iii) COORDINATION WITH OTHER INFLATION ADJUSTMENT.—Subsection (j) shall not apply to any dollar amount specified in this paragraph.".

(b) INFORMATION RETURN MATCHING.—As soon as practicable, the Secretary of the Treasury (or the Secretary's delegate) shall develop and implement procedures for checking an individual's claim for a credit under section 32 of the Internal Revenue Code of 1986, by reason of subsection (n)(1) thereof, against any information return made with respect to such individual under section 6050S (relating to returns relating to higher education tuition and related expenses).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2018.

SEC. 102. TAXPAYER ELIGIBLE FOR CHILDLESS EARNED INCOME CREDIT IN CASE OF QUALIFYING CHILDREN WHO FAIL TO MEET CERTAIN IDENTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 32(c)(1) is amended by striking subparagraph (F).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 103. CREDIT ALLOWED IN CASE OF CERTAIN SEPARATED SPOUSES.

(a) IN GENERAL.—Section 32(d) is amended—

(1) by striking "MARRIED INDIVIDUALS.—In the case of" and inserting the following: "MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of", and

(2) by adding at the end the following new paragraph:

"(2) DETERMINATION OF MARITAL STATUS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), marital status shall be determined under section 7703(a).

"(B) SPECIAL RULE FOR SEPARATED SPOUSE.—An individual shall not be treated as married if such individual—

"(i) is married (as determined under section 7703(a)) and does not file a joint return for the taxable year,

"(ii) lives with a qualifying child of the individual for more than one-half of such taxable year, and

"(iii)(I) during the last 6 months of such taxable year, does not have the same principal place of abode as the individual's spouse, or

"(II) has a decree, instrument, or agreement (other than a decree of divorce) described in section 121(d)(3)(C) with respect to the individual's spouse and is not a member of the same household with the individual's spouse by the end of the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1)(A) of such Code is amended by striking the last sentence.

(2) Section 32(c)(1)(E)(ii) of such Code is amended by striking "(within the meaning of section 7703)".

(3) Section 32(d)(1) of such Code, as amended by subsection (a), is amended by striking "(within the meaning of section 7703)".

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

SEC. 104. ELIMINATION OF DISQUALIFIED INVESTMENT INCOME TEST.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 is amended by striking subsection (i).

(b) CONFORMING AMENDMENTS.—

(1) Section 32(j)(1) of such Code is amended by striking "subsections (b)(2) and (i)(1)" and inserting "subsection (b)(2)".

(2) Section 32(j)(1)(B)(i) of such Code is amended by striking "subsections (b)(2)(A) and (i)(1)" and inserting "subsection (b)(2)(A)".

(3) Section 32(j)(2) of such Code is amended—

(A) by striking subparagraph (B), and

(B) by striking "ROUNDING.—" and all that follows through "If any dollar amount" and inserting the following: "ROUNDING.—If any dollar amount".

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

SEC. 105. APPLICATION OF EARNED INCOME TAX CREDIT IN POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7529. APPLICATION OF EARNED INCOME TAX CREDIT TO POSSESSIONS OF THE UNITED STATES.

"(a) PUERTO RICO.—

"(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to Puerto Rico equal to—

"(A) the specified matching amount for such calendar year, plus

"(B) in the case of calendar years 2020 through 2024, the lesser of—

"(i) the expenditures made by Puerto Rico during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to the earned income tax credit, or

"(ii) $1,000,000.

"(2) REQUIREMENT TO REFORM EARNED INCOME TAX CREDIT.—The Secretary shall not make any payments under paragraph (1) with respect to any calendar year unless Puerto Rico has in effect an earned income tax credit for taxable years beginning in or with such calendar year which (relative to the earned income tax credit which was in effect for taxable years beginning in or with calendar year 2019) increases the percentage of earned income which is allowed as a credit for each group of individuals with respect to which such percentage is separately stated or determined in a manner designed to substantially increase workforce participation.

"(3) SPECIFIED MATCHING AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'specified matching amount' means, with respect to any calendar year, the lesser of—

"(i) the excess (if any) of—

"(I) the cost to Puerto Rico of the earned income tax credit for taxable years beginning in or with such calendar year, over

"(II) the base amount for such calendar year, or

"(ii) the product of 3, multiplied by the base amount for such calendar year.

"(B) BASE AMOUNT.—

"(i) BASE AMOUNT FOR 2020.—In the case of calendar year 2020, the term 'base amount' means the greater of—

"(I) the cost to Puerto Rico of the earned income tax credit for taxable years beginning in or with calendar year 2019 (rounded to the nearest multiple of $1,000,000), or

"(II) $200,000,000.

"(ii) INFLATION ADJUSTMENT.—In the case of any calendar year after 2020, the term 'base amount' means the dollar amount determined under clause (i) increased by an amount equal to—

"(I) such dollar amount, multiplied by—

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2019' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

Any amount determined under this clause shall be rounded to the nearest multiple of $1,000,000.

"(4) RULES RELATED TO PAYMENTS AND REPORTS.—

"(A) TIMING OF PAYMENTS.—The Secretary shall make payments under paragraph (1) for any calendar year—

"(i) after receipt of the report described in subparagraph (B) for such calendar year, and

"(ii) except as provided in clause (i), within a reasonable period of time before the due date for individual income tax returns (as determined under the laws of Puerto Rico) for taxable years which began on the first day of such calendar year.

"(B) ANNUAL REPORTS.—With respect to calendar year 2020 and each calendar year thereafter, Puerto Rico shall provide to the Secretary a report which shall include—

"(i) an estimate of the costs described in paragraphs (1)(B)(i) and (3)(A)(i)(I) with respect to such calendar year, and

"(ii) a statement of such costs with respect to the preceding calendar year.

"(C) ADJUSTMENTS.—

"(i) IN GENERAL.—In the event that any estimate of an amount is more or less than the actual amount as later determined and any payment under paragraph (1) was determined on the basis of such estimate, proper payment shall be made by, or to, the Secretary (as the case may be) as soon as practicable after the determination that such estimate was inaccurate. Proper adjustment shall be made in the amount of any subsequent payments made under paragraph (1) to the extent that proper payment is not made under the preceding sentence before such subsequent payments.

"(ii) ADDITIONAL REPORTS.—The Secretary may require such additional periodic reports of the information described in subparagraph (B) as the Secretary determines appropriate to facilitate timely adjustments under clause (i).

"(D) DETERMINATION OF COST OF EARNED INCOME TAX CREDIT.—For purposes of this subsection, the cost to Puerto Rico of the earned income tax credit shall be determined by the Secretary on the basis of the laws of Puerto Rico and shall include reductions in revenues received by Puerto Rico by reason of such credit and refunds attributable to such credit, but shall not include any administrative costs with respect to such credit.

"(E) PREVENTION OF MANIPULATION OF BASE AMOUNT.—No payments shall be made under paragraph (1) if the earned income tax credit as in effect in Puerto Rico for taxable years beginning in or with calendar year 2019 is modified after the date of the enactment of this subsection.

"(b) POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—

"(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands equal to—

"(A) 75 percent of the cost to such possession of the earned income tax credit for taxable years beginning in or with such calendar year, plus

"(B) in the case of calendar years 2020 through 2024, the lesser of—

"(i) the expenditures made by such possession during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to such earned income tax credit, or

"(ii) $50,000.

"(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) of subsection (a)(4) shall apply for purposes of this subsection.

"(c) AMERICAN SAMOA.—

"(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to American Samoa equal to—

"(A) the lesser of—

"(i) 75 percent of the cost to American Samoa of the earned income tax credit for taxable years beginning in or with such calendar year, or

"(ii) $12,000,000, plus

"(B) in the case of calendar years 2020 through 2024, the lesser of—

"(i) the expenditures made by American Samoa during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to such earned income tax credit, or

"(ii) $50,000.

"(2) REQUIREMENT TO ENACT AND MAINTAIN AN EARNED INCOME TAX CREDIT.—The Secretary shall not make any payments under paragraph (1) with respect to any calendar year unless American Samoa has in effect an earned income tax credit for taxable years beginning in or with such calendar year which allows a refundable tax credit to individuals on the basis of the taxpayer's earned income which is designed to substantially increase workforce participation.

"(3) INFLATION ADJUSTMENT.—In the case of any calendar year after 2020, the $12,000,000 amount in paragraph (1)(A)(ii) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by—

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2019' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

Any increase determined under this clause shall be rounded to the nearest multiple of $100,000.

"(4) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) of subsection (a)(4) shall apply for purposes of this subsection.

"(d) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7529. Application of earned income tax credit to possessions of the United States.".

TITLE II—CHILD TAX CREDIT

SEC. 201. CHILD TAX CREDIT FULLY REFUNDABLE FOR 2019 AND 2020.

(a) IN GENERAL.—Section 24(h) is amended by adding at the end the following new paragraph:

"(8) CREDIT FULLY REFUNDABLE FOR 2019 AND 2020.—In the case of an individual other than a nonresident alien, for any taxable year beginning in 2019 or 2020—

"(A) paragraph (5) of this subsection shall not apply, and

"(B) the increase determined under the first sentence of subsection (d)(1) shall be the amount determined under subparagraph (A) of such subsection (determined without regard to paragraph (4) of this subsection).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2018.

SEC. 202. PAYMENTS TO POSSESSIONS.

(a) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of section 24 of the Internal Revenue Code of 1986 with respect to taxable years beginning after 2018. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(b) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of section 24 of such Code for taxable years beginning after 2018 if the provisions of such section had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such pos-

session has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession in a manner which replicates to the greatest degree practicable the benefits that would have been so provided to each such resident.

(c) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—

(1) IN GENERAL.—No credit shall be allowed against United States income taxes for any taxable year under section 24 of the Internal Revenue Code of 1986 to any person—

(A) to whom a credit is allowed against taxes imposed by a possession with a mirror code tax system by reason of the application of section 24 of such Code in such possession for such taxable year, or

(B) who is eligible for a payment under a plan described in subsection (b) with respect to such taxable year.

(2) RESTRICTION ON REFUNDABLE CREDIT.—In the case of any person to whom a credit would be allowed against taxes imposed by a possession which does not have a mirror code tax system if the provisions of such section 24 had been in effect in such possession for the taxable year (and who is not described in paragraph (1)(B)), section 24(h)(8) of such Code (as added by this Act) shall not apply to such person for such taxable year.

(d) DEFINITIONS AND SPECIAL RULES.—

(1) POSSESSION OF THE UNITED STATES.—For purposes of this section, the term "possession of the United States" includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(2) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(3) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from the credit allowed under section 24 of the Internal Revenue Code of 1986.

SEC. 203. INCREASED CHILD TAX CREDIT FOR CHILDREN WHO HAVE NOT ATTAINED AGE 4.

(a) IN GENERAL.—Section 24(h)(2) is amended to read to as follows:

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (a) shall be applied by substituting '$2,000' for '$1,000'.

"(B) TAXABLE YEARS BEGINNING IN 2019 AND 2020.—In the case of any taxable year beginning in 2019 or 2020, subsection (a) shall be applied by substituting '$2,000 ($3,000 in the case of a qualifying child who has not attained age 4 as of the close of the calendar year in which the taxable year of the taxpayer begins)' for '$1,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2018.

TITLE III—DEPENDENT CARE ASSISTANCE

SEC. 301. REFUNDABILITY AND ENHANCEMENT OF CHILD AND DEPENDENT CARE TAX CREDIT.

(a) IN GENERAL.—Section 21 is amended by adding at the end the following new subsection:

"(g) SPECIAL RULES FOR 2019 AND 2020.—In the case of any taxable year beginning in 2019 or 2020—

"(1) CREDIT MADE REFUNDABLE.—In the case of an individual other than a nonresident alien, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).

"(2) INCREASE IN APPLICABLE PERCENTAGE.—Subsection (a)(2) shall be applied—

"(A) by substituting '50 percent' for '35 percent ', and

"(B) by substituting '$120,000' for '$15,000'.

"(3) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Subsection (c) shall be applied—

"(A) by substituting '$6,000' for '$3,000' in paragraph (1) thereof, and

"(B) by substituting 'twice the amount in effect under paragraph (1)' for '$6,000' in paragraph (2) thereof.

"(4) INFLATION ADJUSTMENT OF DOLLAR AMOUNTS.—In the case of any taxable year beginning after 2019, the $120,000 amount in paragraph (2)(B) and the $6,000 amount in paragraph (3)(A) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2018' for '2016' in subparagraph (A)(ii) thereof.

If any increase determined under this paragraph is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

"(5) INCOME LIMITATION.—

"(A) IN GENERAL.—Paragraphs (1) through (4) of this subsection shall not apply to any taxpayer for any taxable year if the modified adjusted gross income of such taxpayer for such taxable year exceeds $1,000,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 911, 931, and 933.".

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting "21 (by reason of subsection (g) thereof)," before "25A".

(c) COORDINATION WITH POSSESSION TAX SYSTEMS.—Section 21(g)(1) of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any person—

(1) to whom a credit is allowed against taxes imposed by a possession with a mirror code tax system by reason of the application of section 21 of such Code in such possession for such taxable year, or

(2) to whom a credit would be allowed against taxes imposed by a possession which does not have a mirror code tax system if the provisions of section 21 of such Code had been in effect in such possession for such taxable year.

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

SEC. 302. INCREASE IN EXCLUSION FOR EMPLOYER-PROVIDED DEPENDENT CARE ASSISTANCE.

(a) IN GENERAL.—Section 129(a)(2) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR 2020 AND 2021.—In the case of any taxable year beginning in 2020 or 2021—

"(i) IN GENERAL.—Subparagraph (A) shall be applied be substituting '$10,500 (half such dollar amount' for '$5,000 ($2,500'.

"(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2020, the $10,500 amount in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2019' for '2016' in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence which is not a multiple of $50, shall be rounded to the nearest multiple of $50.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2019.

TITLE IV—CERTAIN FRINGE BENEFIT EXPENSES

SEC. 401. REPEAL OF INCLUSION OF CERTAIN FRINGE BENEFIT EXPENSES IN UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Section 512(a) is amended by striking paragraph (7).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13703 of Public Law 115–97.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 3300, the "Economic Mobility Act of 2019" as amended and ordered reported by the Committee on Ways and Means on June 20 2019, (1) increases and makes other modifica-

tions to the earned income tax credit, (2) modifies the rules relating to the additional child tax credit, and increases the child tax credit for families with young children, (3) increases the value of the child and dependent care credit, makes that credit refundable, and increases the maximum exclusion amount for employer-provided dependent care assistance; and (4) repeals the requirement that unrelated business taxable income of tax-exempt organizations be increased by certain fringe benefits.

B. Background and Need for Legislation

This legislation represents the first time in a decade that the Committee on Ways & Means has considered major improvements to anti-poverty tax programs. The Earned Income Tax Credit (EITC) and Child and Dependent Care Tax Credit (CDCTC)—two provisions that help working and middle-class taxpayers and their children—were not revised in the 2017 tax law, P.L. 115–97. The Child Tax Credit (CTC) was revised in P.L. 115–97, but not meaningfully targeted at families that are struggling the most.

To correct this lack of relief for families and individuals, the legislation contains two-year expansions to the EITC, CTC, and CDCTC. These expansions are based on several bills that have been introduced in this and past Congresses by Members of the Committee and other Members of Congress. For example, the legislation draws from the Earned Income Tax Credit Improvement and Simplification Act (H.R. 822, 115th Congress), the Tax Equity and Prosperity for Puerto Rican Families Act (H.R. 2649), the American Family Act (H.R. 1560), the Child and Dependent Care Tax Credit Enhancement Act (H.R. 1967), the Working Families Relief Act (H.R. 2879), the PACE Act (H.R. 1696), and the Stop the Tax Hike on Charities and Places of Worship Act (H.R.1223). Preliminary Committee estimates indicate that the EITC expansion alone could double the number of workers eligible for the credit and increase the average amount each worker receives by several times.

In addition, this legislation was considered and favorably reported by the Committee along with three other bills, including H.R. 3301, the Taxpayer Certainty and Disaster Relief Act of 2019 (the Taxpayer Certainty Act). The Taxpayer Certainty Act extends through 2020 34 provisions that expired at the end of 2017, expired at the end of 2018, or will expire at the end of 2019.

Many of the provisions in the Taxpayer Certainty Act are related to businesses. The two-year expansions to the EITC, CTC, and CDCTC are meant to create balance by providing benefits to working and middle-class individuals and families. In the Committee's view, the extension of the provisions in the Taxpayer Certainty Act are linked to the two-year expansions in this legislation.

Finally, the legislation repeals P.L. 115–97's imposition of unrelated business income tax for certain qualified transportation fringe benefits of tax-exempt organizations (the so-called "church parking tax"). After gathering input from Members of Congress, affected organizations, and other stakeholders, the Committee decided to eliminate this particularly onerous and unfair policy decision made in P.L. 115–97.

C. Legislative History

Background

H.R. 3300, the "Economic Mobility Act of 2019," was introduced on June 18, 2019, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 3300 on June 20, 2019, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The Committee held a hearing on the 2017 Tax Law and Who It Left Behind on March 27, 2019. The witnesses for this hearing were Professor Nancy Abramowitz from American University, Dr. Elise Gould from the Economic Policy Institute, Dr. Douglas Holtz-Eakin from the American Action Forum, Professor Jason Oh of the University of California, Los Angeles, and Mr. Christopher Shelton of the Communication Workers of America.

II. EXPLANATION OF THE BILL

TITLE I—EARNED INCOME TAX CREDIT

1. Strengthening the Earned Income Tax Credit for Individuals With No Qualifying Children, and Certain Other Changes to the Earned Income Tax Credit (secs. 101–104 of the bill and sec. 32 of the Code)

PRESENT LAW

Overview

Low- and moderate-income workers may be eligible for the refundable earned income tax credit ("EITC"). The amount of the EITC is based on the presence and number of qualifying children in the worker's family, filing status, adjusted gross income ("AGI"), earned income, and investment income.

The EITC generally equals a specified percentage of earned income up to a maximum dollar amount. The maximum amount applies over a certain income range and then diminishes to zero over a specified phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the beginning of the phaseout range, the maximum EITC amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed. The specified percentage, maximum dollar amount, and phaseout rate and range vary with filing status and number of children. Four separate credit percentage schedules apply: one for taxpayers with no qualifying children, one for taxpayers with one qualifying child, one for taxpayers with two qualifying children, and one for taxpayers with three or more qualifying children.[1]

[1] All income thresholds are indexed for inflation annually.

An individual is not eligible for the EITC if the aggregate amount of certain investment income, known as disqualified income, of the taxpayer for the taxable year exceeds $3,600 (for 2019). This threshold is indexed for inflation. Disqualified income is the sum of (1) interest (both taxable and tax exempt), (2) dividends, (3) net rent and royalty income (if greater than zero), (4) capital gains net income, and (5) net passive income that is not self-employment income (if greater than zero).

The EITC may be claimed by a taxpayer if the taxpayer is a U.S. citizen or a resident alien. Individuals who are nonresident aliens for any portion of the taxable year are not eligible to claim the EITC unless an election under section 6013(g) or (h) (relating to individuals who are married to an individual who is either a citizen or resident of the United States at year end) is in effect for the taxable year. In addition, individuals who claim the benefits of section 911 (relating to the income exclusion election available to U.S. citizens or resident aliens living abroad) are not eligible to claim the EITC.

To claim the EITC, the taxpayer must include the taxpayer's valid Social Security number ("SSN") and valid SSN for the qualifying child (and, if married, the spouse's SSN) on his or her tax return. For these purposes, a valid SSN is an SSN issued to an individual, other than an SSN issued to an individual solely for the purpose of applying for or receiving Federally funded benefits, on or before the due date for filing the return for the taxable year.[2] The EITC is a refundable credit, meaning that if the amount of the credit (together with other refundable credits) exceeds the taxpayer's Federal income tax liability (reduced by nonrefundable credits), the excess is treated as an overpayment of tax payable to the taxpayer.[3]

Filing status

An unmarried individual may claim the EITC if he or she files as a single filer or as a head of household. Married individuals generally may not claim the EITC unless they file jointly. An exception to the joint return filing requirement applies to certain spouses who are separated. Under this exception, a married taxpayer who is separated from his or her spouse for the last six months of the taxable year is not considered to be married (and, accordingly, may file a return as head of household and claim the EITC), provided that the taxpayer maintains a household that constitutes the principal place of abode for a dependent child (including a son, stepson, daughter, stepdaughter, adopted child, or a foster child) for over half the taxable year, and pays over half the cost of maintaining the household in which he or she resides with the child during the year.

Qualifying child

In order for an individual to be a qualifying child for purposes of the EITC, that individual must meet the relationship, age, and residency tests. In addition to meeting all three of these tests, the

[2] Sec. 205(c)(2)(B)(i)(II) (and that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act.
[3] Sec. 6401(b)(1).

individual who is being claimed as a qualifying child may not file a joint return for the taxable year.

The relationship test requires that the individual is the taxpayer's son, daughter, adopted child, stepchild, foster child, or a descendant of any of them (*e.g.*, the taxpayer's grandchild). Additionally, the child can be the taxpayer's brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of any of them (*e.g.*, the taxpayer's niece or nephew).

The age test requires that the individual must be either (1) under the age of 19 at the end of the calendar year, (2) under the age of 24 at the end of the calendar year and a full-time student,[4] or (3) permanently and totally disabled at any time during the calendar year, regardless of age.[5] The residency test requires that the individual has the same principal place of abode as the taxpayer for more than half of the calendar year and such place must be in the United States. Special rules apply in the case of divorced or separated parents.

If more than one taxpayer lives with a qualifying child, and the taxpayers file separate returns, only one of these taxpayer may claim the qualifying child for purposes of the EITC. Special rules, known as the tiebreaker rules, prescribe which taxpayer may claim that qualifying child for purposes of the EITC.[6] The IRS previously took the position that if more than one individual would be eligible to claim a qualifying child but for the fact that another individual claimed the qualifying child on their return (either because of a decision made among the taxpayers or by operation of law), then that individual may not claim an EITC for the taxable year, unless the taxpayer claims the EITC with respect to another qualifying child. The IRS changed this position in proposed regulations, which taxpayers could choose to apply upon publication of the proposed regulations.[7] These proposed regulations provide that if an individual meets the definition of a qualifying child for more than one taxpayer and the individual is not treated as the qualifying child of a taxpayer under the tiebreaker rules, then that taxpayer may claim the EITC for taxpayers without a qualifying child provided that the taxpayer meets the other requirements to claim that credit.

EITC for taxpayers with no qualifying children

Taxpayers with no qualifying children may claim a credit if they are age 25 or older and below age 65, have a principal place of abode in the United States for more than half the year, and cannot be claimed as dependent on anyone else's return. For 2019, the credit is 7.65 percent of earned income up to $6,920, resulting in a maximum credit of $529. The maximum credit is available for those with earned income between $6,920 and $8,650 ($14,450 if married filing jointly). The credit begins to phase out at a rate of

[4] To qualify as a student, the individual must be, during some part of each of any five calendar months during the calendar year: (1) a full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school, or (2) a student taking a full-time, on-farm training course given by a school described in (1), or a state, county, or local government.

[5] An individual is permanently and totally disabled if he or she cannot engage in any substantial gainful activity because of a physical or mental condition and a doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

[6] Sec. 152(c)(4).

[7] Prop. Treas. reg. sec. 1.32–2(c)(3)(ii). 82 Fed. Reg. 6370 (Jan. 19, 2017).

7.65 percent of earned income (or AGI, if greater) above $8,650 ($14,450 if married filing jointly) resulting in a $0 credit at $15,570 of earned income ($21,370 if married filing jointly).

Any eligible taxpayer with at least one qualifying child who does not claim the EITC with respect to qualifying children due to failure to meet certain identification requirements with respect to such children (*i.e.*, providing the name, age, and SSN of each of such children) may not claim the EITC for taxpayers without qualifying children.

REASONS FOR CHANGE

The EITC is intended to provide tax relief to low and moderate income workers, to combat poverty, and to improve incentives to work. In addition, the EITC is an effective means by which the overall progressivity of the tax system can be promoted. The Committee believes that expanding access to the EITC to more workers and increasing the amount of the credit for taxpayers with no qualifying children will further these goals.

For taxpayers with no qualifying children, the Committee believes expanding the credit to include younger and older workers would allow the credit to better reflect the modern workforce. Workers without children are the only taxpayers that are taxed into poverty from the combination of Federal income and payroll taxes. Therefore, the Committee believes the amount of the credit should be substantially increased in order to provide meaningful relief and achieve the goal of encouraging work. This change would be the largest expansion of the EITC in a decade, and the first expansion for workers without children in 25 years aside from inflation adjustments.

The Committee also believes that the more modest EITC for no qualifying children should be available to taxpayers who meet the applicable criteria but are unable to claim the more generous EITC for taxpayers with qualifying children because they fail to meet the identification requirements for qualifying children. Finally, the Committee believes that separated individuals and individuals with investment income should be eligible for the EITC.

EXPLANATION OF PROVISION

Temporary expansion of EITC for taxpayers with no qualifying children

In general, for two years, the provision expands eligibility for, and the amount of credit for, taxpayers with no qualifying children.

For any taxable year beginning in 2019 or 2020, in the case of the credit for a taxpayer with no qualifying children, the minimum age is reduced from age 25 to age 19. Under the provision, the age reduction does not apply to an individual who is a full-time student (or, in the case of a married individual, if both the individual and the individual's spouse are full-time students). A full-time student means, with respect to a taxable year, an individual who is an eligible student during at least five calendar months during the taxable year. An eligible student is defined in section 25A(b)(3) (relating to the American Opportunity and Lifetime Learning credits) as a student who, with respect to any academic period, meets the requirements of section 484(a)(1) of the Higher Education Act of

1965[8] and is carrying at least half the normal full-time work load for the course of study the student is pursuing.

For any taxable year beginning in 2019 or 2020, the provision also increases the upper age limit for the credit for taxpayers with no qualifying children from age 65 to age 66.

Finally, for any taxable year beginning in 2019 or 2020, the provision increases the amount of the credit for taxpayers with no qualifying children. The provision increases the credit percentage and phaseout percentage from 7.65 percent to 15.3 percent. In addition, the earned income amount is increased to $9,570, and the phaseout amount is increased to $11,310. The maximum amount of the credit is $1,464. These increased amounts are adjusted for inflation after 2019.

The provision requires the Secretary to develop and implement procedures, as soon as practicable, for checking an individual's claim for the EITC under the provision for individuals without qualifying children ages 19 to 24 against any information returns made with respect to such individual under section 6050S (returns relating to higher education tuition and related expenses).

Permanent expansions of EITC eligibility

The provision repeals the rule that an eligible taxpayer with at least one qualifying child who does not claim the EITC with respect to qualifying children due to failure to meet the identification requirements, including the valid SSN requirement, with respect to such child or children may not claim the EITC for taxpayers without qualifying children.[9] Accordingly, such a taxpayer may claim the EITC for a taxpayer without qualifying children under the provision.

Under the provision, an otherwise married individual separated from the individual's spouse is treated as not married for purposes of the EITC if a joint return is not filed. Thus, the EITC may be claimed by the taxpayer on a separate return. The provision applies only if the taxpayer lives with a qualifying child of the taxpayer for more than one-half of the taxable year and either (1) does not have the same principal place of abode as the individual's spouse during the last six months of the taxable year or (2) has a decree, instrument, or agreement (other than a decree of divorce) with respect to the individual's spouse and is not a member of the same household with the individual's spouse by the end of the taxable year.

The provision eliminates the denial of the credit to individuals with disqualified investment income. Thus, the eligibility of individuals to claim the EITC is determined without regard to the amount of their disqualified investment income.

EFFECTIVE DATE

The provision to temporarily expand the EITC for taxpayers with no qualifying children applies to taxable years beginning after December 31, 2018.

The provisions to permanently expand EITC eligibility apply to taxable years beginning after the date of enactment.

[8] 20 U.S.C. ch. 28 § 1001 *et seq.*
[9] Sec. 32(c)(1)(F).

2. Application of Earned Income Tax Credit in Territories of the United States (sec. 105 of the bill and new sec. 7529 of the Code)

PRESENT LAW

Citizens of the United States are generally subject to Federal income tax on their worldwide income, including those citizens in the U.S. territories. Residents of the U.S. territories are generally subject to the Federal income tax system based on their status as U.S. citizens or residence in the territories, with certain special rules for determining residence and source of income specific to the territory. Broadly, a bona fide individual resident of a territory is exempt from U.S. tax on income derived from sources within that territory but is subject to U.S. tax on U.S.-source and non-territory-source income.[10]

The application of the Federal tax rules to the territories vary from one territory to another. Three territories, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, are referred to as mirror Code territories because the Code serves as the internal tax law of those territories (substituting the particular territory for the United States wherever the Code refers to the United States). A resident of one of those territories generally files a single tax return only with the territory of which the individual is a resident, and not with the United States. American Samoa and Puerto Rico, by contrast, are non-mirror Code territories. These two territories have their own internal tax laws, and a resident of either American Samoa or Puerto Rico may be required to file income tax returns with both their territory of residence and the United States.

The three mirror Code territories have, under their mirror Code, an earned income tax credit identical to that in the U.S. Code.[11] Puerto Rico has an earned income tax credit ("EITC") under its internal tax laws. American Samoa does not have an EITC under its internal tax laws. Each territory that has an EITC credit bears the cost of the credit.

REASONS FOR CHANGE

The EITC is intended to provide tax relief to low-and moderate-income workers to combat poverty and to improve incentives to work. The Committee wishes to encourage Puerto Rico to expand its EITC in order to further these goals, and wishes to encourage American Samoa to enact an EITC in order to further these goals. The Committee recognizes the importance of providing funding to all of the territories, the citizens of which are U.S. citizens or nationals, in order to help fund their EITC programs. The Committee believes that provisions proven to reduce poverty are especially timely due to the impact of recent natural disasters on Puerto Rico and other territories.

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[10] See secs. 932, 933, and 937.

[11] For a full discussion of present law and an explanation of the provisions regarding the EITC with respect to the United States, see the discussion regarding secs. 101–104 of the bill.

EXPLANATION OF PROVISION

Under the provision, the Secretary makes payments to certain territories that relate to the cost of each of the territory's EITC.

With respect to Puerto Rico, if Puerto Rico enacts changes to its EITC which increase the percentage of earned income allowed as a credit in a manner designed to substantially increase workforce participation, the Secretary makes payments to Puerto Rico each calendar year, starting in 2020, of a specified matching amount. The specified matching amount for a calendar year is the lesser of (1) the cost to Puerto Rico of the EITC for taxable years beginning in or with such calendar year over the base amount of such calendar year or (2) three times the base amount for such calendar year. The base amount is the greater of (1) the cost to Puerto Rico of the EITC for taxable years beginning in or with calendar year 2019 (rounded to the nearest multiple of $1 million) or (2) $200 million; the base amount is indexed to inflation for calendar years after 2020. For example, if Puerto Rico spends $210 million on the EITC in 2019 and projects spending $850 million on the EITC in 2020 (through an appropriate increase in the percentage of earned income allowed as a credit), the base amount is $210 million (the greater of $210 million and $200 million) and the specified matching amount is $630 million (the lesser of (i) $850 million − $210 million = $640 million and (ii) 3 × $210 million = $630 million). For calendar years 2020 through 2024, the Secretary also makes a payment to Puerto Rico of the lesser of (1) Puerto Rico's expenditures for education efforts with respect to taxpayers and tax return preparers regarding the EITC or (2) $1 million.

Under the provision, the Secretary determines the cost of the EITC for Puerto Rico based on the laws of Puerto Rico, but such cost does not include administrative costs with respect to such credit. Puerto Rico must provide annual reports to the Secretary that include an estimate of costs and a statement of costs with respect to the preceding year. The Secretary then makes the payments described above to Puerto Rico after receipt of such annual reports and within a reasonable period of time before the individual income tax filing date in Puerto Rico. Adjustments to such payments are made as soon as practicable after the determination that an estimate was inaccurate.

The Secretary will not make any payments if the EITC as in effect in Puerto Rico for taxable years beginning in or with calendar year 2019 is modified after the date of enactment of this provision. The intent of this rule is to prevent Puerto Rico from making changes to its EITC for the purpose of manipulating the base amount. For example, if, after enactment of this provision, Puerto Rico amended its EITC for taxable years beginning in or with calendar year 2019 such that the cost of the EITC for such taxable years is $300 million, Puerto Rico would not be eligible for payments under the provision.

With respect to the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands, the Secretary will make payments to each mirror Code territory every calendar year, starting in 2020. These payments equal to 75 percent of the cost to such territory of its EITC each year for taxable years beginning in or with such calendar year. For calendar years 2020 through 2024,

the Secretary also makes a payment of the lesser of (1) the territory's expenditures for education efforts with respect to taxpayers and tax return preparers regarding the EITC or (2) $50,000. The Secretary determines the cost of the credit and provide payments with respect to each territory under rules similar to the rules described above for Puerto Rico. The territories must provide annual reports to the Secretary that include an estimate of costs and a statement of costs with respect to the preceding year.

With respect to American Samoa, the Secretary makes payments to American Samoa each calendar year that American Samoa has a refundable EITC designed to substantially increase workforce participation, starting in 2020. These payments equal the lesser of (1) 75 percent of the cost to American Samoa of such credit for taxable years beginning in or with such calendar year or (2) $12 million, indexed to inflation. For calendar years 2020 through 2024, the Secretary also makes a payment of the lesser of (1) the territory's expenditures for education efforts with respect to taxpayers and tax return preparers regarding the EITC or (2) $50,000. The Secretary determines the cost of the credit and provide payments with respect to American Samoa under rules similar to the rules described above for Puerto Rico. American Samoa must provide annual reports to the Secretary that include an estimate of costs and a statement of costs with respect to the preceding year.

EFFECTIVE DATE

The provision is effective beginning in calendar year 2020.

II.

TITLE II—CHILD TAX CREDIT

1. CHILD TAX CREDIT FULLY REFUNDABLE FOR 2019 AND 2020 (SECS. 201 AND 203 OF THE BILL AND SEC. 24 OF THE CODE)

PRESENT LAW

An individual is allowed a tax credit of $2,000 for each qualifying child.[12] The aggregate amount of otherwise allowable child tax credits is phased out for an individual with income over a threshold amount. Specifically, the otherwise allowable child tax credit amount is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income ("AGI") over $400,000 for joint returns, and $200,000 for all other taxpayers.[13] For purposes of this limitation, modified AGI includes certain otherwise excludable income earned by U.S. citizens or residents living abroad or in certain U.S. territories.

The child tax credit may be claimed by any taxpayer, regardless of citizenship or residency, if the requirements for claiming the credit are met.

The credit is allowable against both the regular tax and the alternative minimum tax ("AMT").

[12] For taxable years beginning after December 31, 2025, the credit amount is $1,000.

[13] For taxable years beginning after December 31, 2025, the modified AGI threshold amounts at which the credit begins to phase out are $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.

In some circumstances, all or a portion of the otherwise allowable credit is treated as a refundable credit (the "additional child tax credit"). The amount treated as a refundable credit reduces the amount of the nonrefundable credit. A refundable credit creates an overpayment of income tax to the extent the credit (together with other refundable credits) exceeds the taxpayer's income tax liability (reduced by nonrefundable credits).

The credit is treated as refundable in an amount equal to 15 percent of earned income in excess of $2,500[14] (the "earned income formula"). Earned income is defined as the sum of wages, salaries, tips, and other taxable employee compensation plus net self-employment earnings. Only items taken into account in computing taxable income are treated as earned income.[15] However, combat pay is treated as earned income for these purposes.

A taxpayer with three or more qualifying children may determine the additional child tax credit using the "alternative formula," if this results in a larger additional child tax credit than determined under the earned income formula. Under the alternative formula, the additional child tax credit equals the amount by which the taxpayer's Social Security taxes exceed the taxpayer's EITC.

The maximum amount of the refundable child tax credit may not exceed $1,400 per qualifying child. This $1,400 amount is indexed for inflation, although the amount may not exceed $2,000.[16]

The name and Social Security number ("SSN") of the qualifying child must appear on the return, and the SSN must be issued before the due date for filing the return.[17] The SSN also must be issued to a citizen of the United States or pursuant to a provision of the Social Security Act relating to the lawful admission for employment in the United States.[18] The taxpayer identification number ("TIN") of the taxpayer must also be issued on or before the due date for filing the return.

Qualifying child

Generally, for purposes of the child tax credit, a qualifying child is any individual under the age of 17[19] who is the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. The child must share the same principal place of abode as the taxpayer for more than one-half of the taxable year, may not have provided over one-half of their own support for the taxable year, and may not file a joint return with a spouse.[20] In order to qualify for the child tax credit, the child must be a U.S. citizen, national, or resident.

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[14] For taxable years beginning after December 31, 2025, the earned income threshold for the refundable child tax credit is $3,000.

[15] For example, some ministers' parsonage allowances are considered self-employment income, and thus are considered earned income for purposes of computing the EITC. However, the allowances are excluded from gross income for income tax purposes, and thus are not considered earned income for purposes of the additional child tax credit, because the income is not included in taxable income.

[16] For taxable years beginning after December 31, 2025, there is no maximum amount of the refundable child tax credit; however, the refundable credit may not exceed the total amount of the credit, which is $1,000 for taxable years beginning after December 31, 2025.

[17] For taxable years beginning after December 31, 2025, the child tax credit may be claimed if the TIN of the qualifying child, rather than the SSN of the child, appears on the return.

[18] Sec. 205(c)(2)(B)(i)(I) (or that portion of subclause (III) that relates to subclause (I)) of the Social Security Act.

[19] Sec. 24(c)(1).

[20] Sec. 152(c).

Credit for other dependents

An individual may be claimed as a taxpayer's dependent, if the individual is a qualifying child [21] or a qualifying relative of the taxpayer and meets certain other requirements.[22] An individual is a taxpayer's qualifying relative if such individual (1) bears the appropriate relationship to the taxpayer, (2) has a gross income that does not exceed the personal exemption amount,[23] (3) receives one-half of his or her support from the taxpayer, and (4) is not a qualifying child of the taxpayer. Generally, an individual bears the appropriate relationship to the taxpayer if the individual is the taxpayer's lineal descendent or ancestor, brother, sister, aunt, uncle, niece, or nephew. Some relations by marriage also qualify, including stepmothers, stepfathers, stepbrothers, stepsisters, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law. In addition, an individual bears the appropriate relationship if the individual has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

An individual is allowed a $500 nonrefundable credit for each additional dependent, other than a qualifying child, as defined for purposes of the child tax credit.[24] The SSN requirement does not apply with respect to a qualifying dependent for whom a $500 nonrefundable credit is claimed. In order to claim the $500 nonrefundable credit with respect to any individual, however, the taxpayer must include such individual's TIN on the tax return.[25]

Nonresident alien

A noncitizen is treated as a resident alien of the United States with respect to any calendar year if such individual is (1) a lawful permanent resident of the United States at any time during such calendar year or (2) satisfies the substantial presence test for such calendar year.[26] An alien generally meets the substantial presence test for a calendar year if the alien is present in the United States for at least 31 days during the calendar year and meets a 183-day test which looks to the current calendar year and the two prior calendar years.

An individual is a nonresident alien if the individual is neither a citizen of the United States nor a resident alien of the United States.[27]

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[21] In the context of the dependency rules under section 152, the age requirements differ from the rules for the child tax credit. Under these rules, an individual meets the age requirement either (a) if they are under age 19 or (b) they are a student who is under age 24. Thus, for example, a student who is age 20 and meets the otherwise applicable requirements would not be eligible for the child tax credit, but would still be considered a qualifying child for purposes of the dependency rules. See sec. 152(c)(3).

[22] Sec. 152(d).

[23] For taxable years 2018–2025, the reduction of the personal exemption amount to zero will not be taken into account in determining whether a taxpayer is a qualifying relative under section 152(d)(1)(B). The exemption amount referenced in section 152(d)(1)(B) will be treated as $4,150 (adjusted for inflation after 2018). See Notice 2018–70, 2018–38 I.R.B. 441.

[24] An individual who is a qualifying child for purposes of the dependency rules under section 152, but not a qualifying child for purposes of the child tax credit (*e.g.*, a child who is age 17 or 18, or a student under age 24) is eligible to be a qualifying dependent for purposes of the $500 nonrefundable credit. For taxable years beginning after December 31, 2025, there is no tax credit for non-child dependents.

[25] A technical correction may be necessary to reflect this intent.

[26] Sec. 7701(b)(1)(A). In certain cases, an alien may elect to be treated as a resident for a portion of the year that immediately precedes the year in which the substantial presence test is first met.

[27] Sec. 7701(b)(1)(B).

REASONS FOR CHANGE

The Committee believes that a tax credit for families with children recognizes the importance of helping families raise children by lessening the associated financial burden. The Committee also recognizes that families with young children are in need of additional support, and that policies targeting this crucial stage in childhood development are especially effective in improving long-term economic outcomes. The provision extends the refundable child tax credit to the most vulnerable families who would otherwise be unable to claim the credit or only be able to claim the credit in part, and it makes the credit more generous for families with young children.

EXPLANATION OF PROVISION

Under the provision, the child tax credit is made fully refundable for any taxable year beginning in 2019 or 2020. Thus, the child tax credit is generally refundable up to $2,000 per child, without regard to the amount of earned income or Social Security taxes paid. The adjusted gross income limitation on the credit still applies (regardless of refundability), and the $500 credit for dependents other than qualified children remains non-refundable.

Nonresident aliens are not eligible for the fully refundable credit without regard to the amount of earned income or Social Security taxes paid,[28] but may still be eligible to claim a nonrefundable child tax credit to offset a U.S. tax liability and a refundable credit determined with regard to earned income or Social Security taxes paid.

Additionally, for taxable years beginning in 2019 or 2020, the credit, in the case of a qualifying child who has not attained age four as of the close of the calendar year, is increased to $3,000.

EFFECTIVE DATE

The provision applies to taxable years beginning after December 31, 2018.

2. PAYMENTS TO TERRITORIES RELATING TO THE CHILD TAX CREDIT (SEC. 202 OF THE BILL)

PRESENT LAW

Territories

Citizens of the United States are generally subject to Federal income tax on their worldwide income, including those citizens in the U.S. territories. Residents of the U.S. territories are generally subject to the Federal income tax system based on their status as U.S. citizens or residence in the territories, with certain special rules for determining residence and source of income specific to the territory. Broadly, a bona fide individual resident of a territory is exempt from U.S. tax on income derived from sources within that territory but is subject to U.S. tax on U.S.-source and non-territory-source income.[29]

[28] This limitation is included to prevent a nonresident alien individual who may have no income tax liability to the United States (for example, because his or her income is not effectively connected income) from being able to receive a payment from the United States.

[29] See secs. 932, 933, and 937.

The application of the Federal tax rules to the territories varies from one territory to another. Three territories, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, are referred to as mirror Code territories because the Code serves as the internal tax law of those territories (substituting the particular territory for the United States wherever the Code refers to the United States). A resident of one of those territories generally files a single tax return only with the territory of which the individual is a resident, and not with the United States. American Samoa and Puerto Rico, by contrast, are non-mirror Code territories. These two territories have their own internal tax laws, and a resident of either American Samoa or Puerto Rico may be required to file income tax returns with both the territory of residence and the United States.

Child tax credit

An individual is allowed a tax credit of $2,000 for each qualifying child.[30] In some circumstances, all or a portion of the otherwise allowable credit is treated as a refundable credit (the "additional child tax credit"). The amount treated as a refundable credit reduces the amount of the nonrefundable credit. A refundable credit creates an overpayment of income tax to the extent the credit (together with other refundable credits) exceeds the taxpayer's income tax liability (reduced by nonrefundable credits).

The credit is treated as refundable in an amount equal to 15 percent of earned income in excess of $2,500[31] (the "earned income formula"). Earned income is defined as the sum of wages, salaries, tips, and other taxable employee compensation plus net self-employment earnings. A taxpayer with three or more qualifying children may determine the additional child tax credit using the "alternative formula," if this results in a larger additional child tax credit than determined under the earned income formula. Under the alternative formula, the additional child tax credit equals the amount by which the taxpayer's Social Security taxes exceed the taxpayer's EITC.

The maximum amount of the refundable child tax credit may not exceed $1,400 per qualifying child. This $1,400 amount is indexed for inflation, although the amount may not exceed $2,000.[32]

The three mirror Code territories have, under their mirror Codes, a child tax credit identical to that in the U.S. Code. Each mirror Code territory funds the child tax credit through its own Treasury. Puerto Rico and American Samoa do not have a child tax credit under their internal revenue laws.

In addition, residents of the territories with three or more qualifying children are, under the alternative formula, eligible for the additional child tax credit under the U.S. Code. The U.S. Treasury makes payments to the territory (or, in the case of Puerto Rico, di-

[30] For a full discussion of present law and an explanation of the provision regarding the child tax credit with respect to the United States, see the discussion immediately above. For taxable years beginning after December 31, 2025, the tax credit amount is $1,000.

[31] For taxable years beginning after December 31, 2025, the earned income threshold for the refundable child tax credit is $3,000.

[32] For taxable years beginning after December 31, 2025, there is no maximum amount of the refundable child tax credit; however, the refundable credit may not exceed the total amount of the credit, which is $1,000 for taxable years beginning after December 31, 2025.

rectly to applicable residents of the territory)[33] to cover the cost of this credit.

REASONS FOR CHANGE

The Committee believes that a tax credit for families with children recognizes the importance of helping families raise children by lessening the associated financial burden. The Committee recognizes the importance of providing funding to all of the territories, the citizens of which are U.S. citizens or nationals, in order to fund programs that benefit families with children. The Committee believes that provisions proven to reduce poverty are especially timely due to the impact of recent natural disasters on Puerto Rico and other territories.

EXPLANATION OF PROVISION

Under the provision, the Secretary makes payments to each mirror Code territory that relate to the cost of each territory's child tax credit or approximate such cost.

With respect to mirror Code territories, for each taxable year beginning after 2018, the Secretary makes payments equal to the loss in revenue by reason of the application of the child tax credit to the territory's mirror Code with respect to such taxable year. This amount is determined by the Secretary based on information provided by the governments of the respective territories.

With respect to Puerto Rico and American Samoa, for each taxable year beginning after 2018, the Secretary makes payments in an amount estimated by the Secretary as being equal to the aggregate benefits that would have been provided to the residents of each territory from the child tax credit if a mirror Code tax system had been in effect in such territory with respect to such taxable year. These payments will not be made unless the territory has a plan approved by the Secretary to promptly distribute the payments to its residents in a manner that replicates to the greatest extent practicable the benefits of the child tax credit that would have been provided to each such resident under a mirror Code.

With respect to residents of the mirror Code territories, no child tax credit under the U.S. Code is permitted for any person to whom a child tax credit is allowed against income taxes of the territory. Similarly, with respect to the non-mirror Code territories of Puerto Rico and American Samoa, no child tax credit under the U.S. Code is permitted for any person who is eligible for a payment under the territory's plan for distributing to its residents the payments described above. If a non-mirror Code territory does not have such a plan in place for any taxable year beginning in 2019 or 2020, residents of such territories may not claim the expanded refundable child tax credit for taxable years beginning in 2019 or 2020 as described above. However, these residents may claim the child tax credit to the extent allowed under present law; for example, residents of Puerto Rico may claim the present law refundable child tax credit under the alternative formula.

[33] Residents of Puerto Rico may claim the additional child tax credit under the alternative formula by filing a Form 1040–SS with the Internal Revenue Service.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE III—DEPENDENT CARE ASSISTANCE

1. Refundability and Enhancement of Child and Dependent Care Tax Credit (sec. 301 of the Bill and sec. 21 of the Code)

PRESENT LAW

A taxpayer who maintains a household that includes one or more qualifying individuals may claim a nonrefundable credit against income tax liability for up to 35 percent of a limited amount of employment-related child and dependent care expenses. For this purpose, employment-related expenses are expenses for household services and expenses for the care of a qualifying individual. These expenses must be incurred to enable the taxpayer to be gainfully employed and do not include amounts paid for camps where qualifying individuals stay overnight.

Eligible child and dependent care expenses related to employment are limited to $3,000 if there is one qualifying individual or $6,000 if there are two or more qualifying individuals. Thus, the maximum credit is $1,050 if there is one qualifying individual and $2,100 if there are two or more qualifying individuals. The applicable dollar limit is reduced by any amount excluded from income under an employer-provided dependent care assistance program. The 35 percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of AGI above $15,000. Thus, for taxpayers with AGI above $43,000, the credit rate is 20 percent. The phaseout threshold and the amount of expenses eligible for the credit are not indexed for inflation.

Generally, a qualifying individual is (1) a qualifying child of the taxpayer under the age of 13 for whom the taxpayer may claim a dependency exemption, or (2) a dependent or spouse of the taxpayer if the dependent or spouse is physically or mentally incapable of caring for himself or herself, and shares the same principal place of abode with the taxpayer for over one half the year. Married taxpayers must file a joint return in order to claim the credit.

The child and dependent care tax credit may be claimed by any taxpayer, regardless of citizenship or residency, if the requirements for claiming the credit are met.

REASONS FOR CHANGE

The Committee recognizes the importance of supporting working families who are raising children or caring for dependents and wishes to provide increased relief to help offset the costs of such care. The Committee believes that expanding families' ability to afford quality child care is critical to increasing workforce participation and reducing child poverty.

EXPLANATION OF PROVISION

The provision temporarily expands the child and dependent care tax credit for any taxable year beginning in 2019 or 2020. First, the provision makes the credit fully refundable for taxpayers other

than nonresident aliens.[34] In addition, the provision increases the maximum credit rate to 50 percent and amends the phaseout threshold to begin at AGI above $120,000. Thus, in 2019, for taxpayers with AGI above $178,000, the credit rate is 20 percent. The provision also doubles the amount of child and dependent care expenses that are eligible for the credit; thus, such expenses are limited to $6,000 for one qualifying individual and $12,000 for two or more qualifying individuals. Finally, the provision temporarily indexes for inflation the phaseout threshold and the amount of expenses eligible for the credit beginning after 2019.

The provision to make the credit fully refundable does not apply to residents of the territories, but residents of the territories may still be eligible to claim the nonrefundable credit pursuant to existing rules.

Nonresident aliens are also not eligible for the refundable credit, but may still be eligible to claim a nonrefundable child and dependent care tax credit to the extent they meet the requirements for claiming the credit.

Taxpayers with modified adjusted gross income in excess of $1 million are ineligible to claim the benefits of the temporarily expanded child and dependent care tax credit, but may still claim the pre-expansion child and dependent care credit, if eligible. For purposes of this limitation, modified adjusted gross income is adjusted gross income determined without regards to sections 911, 931, and 933.

EFFECTIVE DATE

The provision applies to taxable years beginning after December 31, 2018.

2. Increase in Exclusion for Employer-Provided Dependent Care Assistance (sec. 302 of the Bill and sec. 129 of the Code)

PRESENT LAW

An annual exclusion[35] from the gross income of an employee is allowed for employer-provided dependent care assistance in an amount up to $5,000 ($2,500 in the case of a separate return by a married individual) if such assistance is provided pursuant to a "dependent care assistance program." Among other requirements, a dependent care assistance program[36] must be a separate written plan of an employer for the exclusive benefit of the employer's employees to provide such employees with dependent care assistance that does not discriminate in favor of highly compensated employees or their dependents as to contributions, benefits, and eligibility.[37]

[34] The limitation to taxpayers other than nonresident aliens is included to prevent a nonresident alien individual who may have no income tax liability to the United States (for example, because his or her income is not effectively connected income) from being able to receive a payment from the United States.

[35] Sec. 129(a).

[36] Sec. 129(d).

[37] Sec. 129(d)(2) and (3). The exclusion applies if the contributions or benefits under the program do not discriminate in favor of highly compensated employees, within the meaning of section 414(q), or their dependents, and the program benefits employees under a classification established by the employer found not to be discriminatory in favor or such highly compensated employees or their dependents.

The amount excludable for any taxable year cannot exceed the earned income of the employee or, if the employee is married, the lesser of the earned income of the employee or the earned income of the employee's spouse.[38]

Amounts attributable to dependent care assistance that are excludible from gross income are also excludible from wages for employment tax purposes.[39]

REASONS FOR CHANGE

The Committee recognizes the importance of supporting working families who are raising children or caring for dependents, and it also recognizes the value in encouraging employers to provide assistance to employees for such care. The provision increases the annual exclusion with respect to employer-provided dependent care assistance in order to provide increased support to working families and a further incentive for employers to offer such a benefit.

EXPLANATION OF PROVISION

The provision temporarily increases, for any taxable year beginning in 2020 or 2021, the amount of the exclusion for employer-provided dependent care assistance. The provision increases such amount from $5,000 to $10,500 (and from $2,500 to $5,250 in the case of a separate return by a married individual). This amount is adjusted for inflation for any taxable year beginning after 2020.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2019.

TITLE IV—CERTAIN FRINGE BENEFIT EXPENSES

1. REPEAL OF INCLUSION OF CERTAIN FRINGE BENEFIT EXPENSES IN UNRELATED BUSINESS TAXABLE INCOME (SEC. 401 OF THE BILL AND SEC. 512(a)(7) OF THE CODE)

PRESENT LAW

Tax exemption for certain organizations

Section 501(a) exempts certain organizations from Federal income tax. Such organizations include (1) tax-exempt organizations described in section 501(c) (including among others section 501(c)(3) charitable organizations and section 501(c)(4) social welfare organizations), (2) religious and apostolic organizations described in section 501(d), and (3) trusts forming part of a pension, profit-sharing, or stock bonus plan of an employer described in section 401(a).

Unrelated business income tax, in general

The unrelated business income tax ("UBIT") generally applies to income derived from a trade or business regularly carried on by the organization that is not substantially related to the performance of

[38] Sec. 129(b). The provisions of section 21(d)(2) apply in determining the earned income of a spouse who is a student or incapable of caring for himself. Sec. 129(b)(2).
[39] Sec. 3121(a)(18).

the organization's tax-exempt functions.[40] An organization that is subject to UBIT and that has $1,000 or more of gross unrelated business taxable income ("UBTI") must report that income on Form 990–T (Exempt Organization Business Income Tax Return). An organization determines its UBTI by subtracting from its gross unrelated business income the deductions directly connected with the unrelated trade or business.[41]

The UBIT rules apply to most tax-exempt organizations, including (1) organizations exempt from tax under section 501(a), including organizations described in section 501(c) (except for U.S. instrumentalities and certain charitable trusts), (2) qualified pension, profit-sharing, and stock bonus plans described in section 401(a), and (3) certain State colleges and universities.[42]

Exclusions from UBTI

Certain types of income are specifically excluded from UBTI, such as dividends, interest, royalties, and certain rents,[43] unless derived from debt-financed property or from certain 50-percent controlled subsidiaries.[44] Certain types of activities are not considered unrelated trade or business activities, such as activities in which substantially all the work is performed by volunteers, which involve the sale of donated goods, or which are carried on for the convenience of members, students, patients, officers, or employees of a charitable organization.[45] Additional activities exempt from UBIT include certain activities of trade shows and State fairs,[46] conducting bingo games,[47] and the distribution of low-cost items incidental to the solicitation of charitable contributions.[48]

Specific deduction against UBTI

In computing UBTI, an exempt organization may take a specific deduction of $1,000. This specific deduction may not be used to create a net operating loss that will be carried back or forward to another year.[49]

In the case of a diocese, province of a religious order, or a convention or association of churches, there is also allowed a specific deduction with respect to each parish, individual church, district, or other local unit. The specific deduction is equal to the lower of $1,000 or the gross income derived from any unrelated trade or business regularly carried on by the local unit.[50]

Increase in UBTI for certain fringe benefits

Under section 512(a)(7), UBTI of a tax-exempt organization is increased to the extent that a deduction is not allowable by reason of section 274 for any item with respect to qualified transportation fringe benefits[51] or any parking facility used in connection with

[40] Secs. 511–514.
[41] Sec. 512(a).
[42] Sec. 511(a)(2).
[43] Sec. 512(b).
[44] Sec. 512(b)(13).
[45] Sec. 513(a).
[46] Sec. 513(d).
[47] Sec. 513(f).
[48] Sec. 513(h).
[49] Sec. 512(b)(12).
[50] *Ibid.*
[51] See sec. 132(f).

qualified parking.[52] The determination of UBTI associated with providing qualified transportation fringes, including parking facilities used in connection with qualified parking, is consistent with the determination of the deduction disallowance under section 274.

This requirement to increase UBTI does not apply to any item directly connected with an unrelated trade or business that is regularly carried on by the organization. The $1,000 specific deduction available to organizations under section 512(b)(12) may be used to offset UBTI resulting from the provision of transportation fringes.

REASONS FOR CHANGE

A number of tax-exempt organizations, including churches and other religious organizations, have noted the complexity associated with calculating the tax they owe for providing their employees with certain fringe benefits. Many of these organizations have no UBIT obligations other than the tax on these fringe benefits, and many have no Form 990 filing obligation with the IRS. The Committee believes that the compliance burden associated with collecting this tax outweighs the increased revenue and the desire for parity in treatment of taxable and tax-exempt employers.

EXPLANATION OF PROVISION

The provision repeals the requirement that UBTI be increased by certain fringe benefits.

EFFECTIVE DATE

The provision is effective for amounts paid or incurred after December 31, 2017.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 3300, the “Economic Mobility Act of 2019”, on June 20, 2019.

A Manager’s amendment to the amendment in the nature of a substitute to H.R. 3300 offered by Chairman Neal, which would increase the value of the child tax credit to $3,000 for taxpayers with qualifying children age 3 and younger, was agreed by a roll call vote of 22 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal	X	....	....	Mr. Brady	....	X	....
Mr. Lewis	X	....	....	Mr. Nunes	....	X	....
Mr. Doggett	....	X	....	Mr. Buchanan	....	....	....
Mr. Thompson	X	....	....	Mr. Smith	....	X	....
Mr. Larson	X	....	....	Mr. Marchant	....	X	....
Mr. Blumenauer	X	....	....	Mr. Reed	....	X	....
Mr. Kind	....	X	....	Mr. Kelly	....	X	....
Mr. Pascrell	X	....	....	Mr. Holding	....	X	....
Mr. Davis	X	....	....	Mr. Smith	....	X	....
Ms. Sanchez	X	....	....	Mr. Rice	....	X	....
Mr. Higgins	X	....	....	Mr. Schweikert	....	X	....
Ms. Sewell	X	....	....	Ms. Walorski	....	X	....
Ms. DelBene	X	....	....	Mr. LaHood (IL)	....	X	....

[52] See sec. 132(f)(5)(C).

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Chu (CA)	X			Mr. Wenstrup		X	
Ms. Moore	X			Mr. Arrington		X	
Mr. Kildee	X			Mr. Ferguson		X	
Mr. Boyle	X			Mr. Estes		X	
Mr. Beyer	X						
Mr. Evans	X						
Mr. Schneider	X						
Mr. Suozzi	X						
Mr. Panetta	X						
Ms. Murphy		X					
Mr. Gomez	X						
Mr. Horsford	X						

An amendment to the amendment in the nature of a substitute offered by Ranking Member Brady, which would strike all provisions except the repeal of the unrelated business income tax on certain fringe benefits of non-profits, was defeated by a roll call vote of 16 yeas to 23 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal		X		Mr. Brady	X		
Mr. Lewis		X		Mr. Nunes	X		
Mr. Doggett		X		Mr. Buchanan			
Mr. Thompson		X		Mr. Smith	X		
Mr. Larson		X		Mr. Marchant	X		
Mr. Blumenauer				Mr. Reed	X		
Mr. Kind		X		Mr. Kelly	X		
Mr. Pascrell		X		Mr. Holding	X		
Mr. Davis		X		Mr. Smith	X		
Ms. Sanchez		X		Mr. Rice	X		
Mr. Higgins		X		Mr. Schweikert	X		
Ms. Sewell		X		Ms. Walorski	X		
Ms. DelBene		X		Mr. LaHood (IL)	X		
Ms. Chu (CA)		X		Mr. Wenstrup	X		
Ms. Moore		X		Mr. Arrington	X		
Mr. Kildee		X		Mr. Ferguson	X		
Mr. Boyle				Mr. Estes	X		
Mr. Beyer		X					
Mr. Evans		X					
Mr. Schneider		X					
Mr. Suozzi		X					
Mr. Panetta		X					
Ms. Murphy		X					
Mr. Gomez		X					
Mr. Horsford		X					

An amendment to the amendment in the nature of a substitute offered by Representative Walorski, which would prevent taxpayers with over $1,000,000 in income from receiving the expansions of the child and dependent care tax credit provided by the bill, was agreed to by a voice vote (with a quorum being present).

An amendment to the amendment in the nature of a substitute offered by Representative Rice, which would disallow the refundability of certain tax credits for 10 taxable years if the taxpayer makes a prior fraudulent claim or for 2 taxable years if the taxpayer makes a reckless claim, was defeated by a roll call vote of 16 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal		X		Mr. Brady	X		
Mr. Lewis		X		Mr. Nunes	X		
Mr. Doggett		X		Mr. Buchanan			

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thompson	....	X	....	Mr. Smith	X	....	....
Mr. Larson	....	X	....	Mr. Marchant	X	....	....
Mr. Blumenauer	....	....	....	Mr. Reed	X	....	....
Mr. Kind	....	X	....	Mr. Kelly	X	....	....
Mr. Pascrell	....	X	....	Mr. Holding	X	....	....
Mr. Davis	....	X	....	Mr. Smith	X	....	....
Ms. Sanchez	....	X	....	Mr. Rice	X	....	....
Mr. Higgins	....	X	....	Mr. Schweikert	X	....	....
Ms. Sewell	....	X	....	Mr. Walorski	X	....	....
Ms. DelBene	....	X	....	Mr. Mr. LaHood (IL)	X	....	....
Ms. Chu (CA)	....	X	....	Mr. Wenstrup	X	....	....
Ms. Moore	....	X	....	Mr. Arrington	X	....	....
Mr. Kildee	....	X	....	Mr. Ferguson	X	....	....
Mr. Boyle	....	X	....	Mr. Estes	X	....	....
Mr. Beyer	....	X	....				
Mr. Evans	....	X	....				
Mr. Schneider	....	X	....				
Mr. Suozzi	....	X	....				
Mr. Panetta	....	X	....				
Ms. Murphy	....	X	....				
Mr. Gomez	....	X	....				
Mr. Horsford	....	X	....				

An amendment to the amendment in the nature of a substitute offered by Representative Arrington, which would require a valid Social Security number for both the taxpayer and qualifying individuals in order to claim the child and dependent care tax credit, was defeated by a roll call vote of 16 yeas to 25 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal	....	X	....	Mr. Brady	X	....	....
Mr. Lewis	....	X	....	Mr. Nunes	....	....	....
Mr. Doggett	....	X	....	Mr. Buchanan	X	....	....
Mr. Thompson	....	X	....	Mr. Smith	X	....	....
Mr. Larson	....	X	....	Mr. Marchant	X	....	....
Mr. Blumenauer	....	X	....	Mr. Reed	X	....	....
Mr. Kind	....	X	....	Mr. Kelly	X	....	....
Mr. Pascrell	....	X	....	Mr. Holding	X	....	....
Mr. Davis	....	X	....	Mr. Smith	X	....	....
Ms. Sanchez	....	X	....	Mr. Rice	X	....	....
Mr. Higgins	....	X	....	Mr. Schweikert	X	....	....
Ms. Sewell	....	X	....	Mr. Walorski	X	....	....
Ms. DelBene	....	X	....	Mr. Mr. LaHood (IL)	X	....	....
Ms. Chu (CA)	....	X	....	Mr. Wenstrup	X	....	....
Ms. Moore	....	X	....	Mr. Arrington	X	....	....
Mr. Kildee	....	X	....	Mr. Ferguson	X	....	....
Mr. Boyle	....	X	....	Mr. Estes	X	....	....
Mr. Beyer	....	X	....				
Mr. Evans	....	X	....				
Mr. Schneider	....	X	....				
Mr. Suozzi	....	X	....				
Mr. Panetta	....	X	....				
Ms. Murphy	....	X	....				
Mr. Gomez	....	X	....				
Mr. Horsford	....	X	....				

An amendment to the amendment in the nature of a substitute offered by Representative Rice, which would improve the integrity of the dependent care assistance credit, was defeated by a roll call vote of 16 yeas to 25 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal		X		Mr. Brady	X		
Mr. Lewis		X		Mr. Nunes			
Mr. Doggett		X		Mr. Buchanan	X		
Mr. Thompson		X		Mr. Smith	X		
Mr. Larson		X		Mr. Marchant	X		
Mr. Blumenauer		X		Mr. Reed	X		
Mr. Kind		X		Mr. Kelly	X		
Mr. Pascrell		X		Mr. Holding	X		
Mr. Davis		X		Mr. Smith	X		
Ms. Sanchez		X		Mr. Rice	X		
Mr. Higgins		X		Mr. Schweikert	X		
Ms. Sewell		X		Mr. Walorski	X		
Ms. DelBene		X		Mr. Mr. LaHood (IL)	X		
Ms. Chu (CA)		X		Mr. Wenstrup	X		
Ms. Moore		X		Mr. Arrington	X		
Mr. Kildee		X		Mr. Ferguson	X		
Mr. Boyle		X		Mr. Estes	X		
Mr. Beyer		X					
Mr. Evans		X					
Mr. Schneider		X					
Mr. Suozzi		X					
Mr. Panetta		X					
Ms. Murphy		X					
Mr. Gomez		X					
Mr. Horsford		X					

The Chairman's Amendment in the nature of a substitute as amended was agreed to by a voice vote (with a quorum being present).

H.R. 3300 as amended by an amendment in the nature of a substitute was ordered favorably reported to the House of Representatives by a roll call vote of 22 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Neal	X			Mr. Brady		X	
Mr. Lewis	X			Mr. Nunes			
Mr. Doggett		X		Mr. Buchanan		X	
Mr. Thompson	X			Mr. Smith (NE)		X	
Mr. Larson	X			Mr. Marchant		X	
Mr. Blumenauer	X			Mr. Reed		X	
Mr. Kind		X		Mr. Kelly		X	
Mr. Pascrell	X			Mr. Holding		X	
Mr. Davis	X			Mr. Smith (MO)		X	
Ms. Sanchez	X			Mr. Rice		X	
Mr. Higgins	X			Mr. Schweikert		X	
Ms. Sewell	X			Mr. Walorski		X	
Ms. DelBene	X			Mr. Mr. LaHood		X	
Ms. Chu	X			Mr. Wenstrup		X	
Ms. Moore	X			Mr. Arrington		X	
Mr. Kildee	X			Mr. Ferguson		X	
Mr. Boyle	X			Mr. Estes		X	
Mr. Beyer	X						
Mr. Evans	X						
Mr. Schneider	X						
Mr. Suozzi	X						
Mr. Panetta	X						
Ms. Murphy		X					
Mr. Gomez	X						
Mr. Horsford	X						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill.

The bill is estimated to decrease Federal fiscal year budget receipts by $131 billion dollars for the period 2019 through 2029.

**ESTIMATED BUDGET EFFECTS OF H.R. 3300,
THE "ECONOMIC MOBILITY ACT OF 2019,"
AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS ON JUNE 20, 2019**

Fiscal Years 2019 - 2029

[Millions of Dollars]

Provision	Effective	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
I. Earned Income Tax Credit														
1. Strengthening the earned income tax credit for individuals with no qualifying children (sunset 12/31/20) [1]	tyba 12/31/18	-141	-9,920	-9,309	---	---	---	---	---	---	---	---	-19,370	-19,370
2. Taxpayer eligible for childless earned income credit in case of qualifying children who fail to meet certain identification requirements [1]	tyba DOE	[2]	-8	-8	-2	-2	-2	-2	-2	-2	-2	-2	-22	-32
3. Credit allowed in case of certain separated spouses [1]	tyba DOE	[2]	-15	-15	-16	-17	-18	-18	-19	-19	-20	-21	-81	-178
4. Elimination of disqualified investment income test [1]	tyba DOE	-8	-436	-416	-349	-370	-389	-391	-389	-378	-377	-378	-1,969	-3,881
5. Application of earned income tax credit in possessions of United States [1]	DOE	---	---	-696	-703	-720	-737	-753	-769	-785	-802	-819	-2,855	-6,783
Total of Earned Income Tax Credit		**-149**	**-10,379**	**-10,444**	**-1,070**	**-1,109**	**-1,146**	**-1,164**	**-1,179**	**-1,184**	**-1,201**	**-1,220**	**-24,297**	**-30,244**
II. Child Tax Credit - Fully Refundable Child Credit, and $3,000 for Children Younger than 4 Years Old (sunset 12/31/20) and Payments to Possessions [1]	**tyba 12/31/18**	**---**	**-41,487**	**-33,984**	**-715**	**-728**	**-741**	**-745**	**-741**	**-376**	**-380**	**-384**	**-77,655**	**-80,282**
III. Dependent Care Assistance														
1. Refundability and enhancement of child and dependent care tax credit (sunset 12/31/20) [1]	tyba 12/31/18	-389	-11,382	-3,993	---	---	---	---	---	---	---	---	-15,764	-15,764
2. Increase in exclusion for employer-provided dependent care assistance (sunset 12/31/21)	tyba 12/31/19	---	-936	-1,602	-515	---	---	---	---	---	---	---	-3,053	-3,053
Total of Dependent Care Assistance		**-389**	**-12,318**	**-5,595**	**-515**	**---**	**---**	**---**	**---**	**---**	**---**	**---**	**-18,817**	**-18,817**

Provision	Effective	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
IV. Certain Fringe Benefit Expenses														
1. Repeal of inclusion of certain fringe benefit expenses in unrelated business taxable income	apoia 12/31/17	-99	-146	-145	-156	-166	-175	-186	-197	-208	-220	-234	-887	-1,931
Total of Certain Fringe Benefit Expenses		**-99**	**-146**	**-145**	**-156**	**-166**	**-175**	**-186**	**-197**	**-208**	**-220**	**-234**	**-887**	**-1,931**
NET TOTAL		**-637**	**-64,330**	**-50,168**	**-2,456**	**-2,003**	**-2,062**	**-2,095**	**-2,117**	**-1,768**	**-1,801**	**-1,838**	**-121,656**	**-131,274**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
apoia = amounts paid or incurred after DOE = date of enactment tyba = taxable years beginning after

[1] Estimates contain the following outlay effect:	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
Strengthening the earned income tax credit for individuals with no qualifying children	---	7,519	7597	---	---	---	---	---	---	---	---	15,116	15,116
Taxpayer eligible for childless earned income credit in case of qualifying children who fail to meet certain identification requirements	---	5	5	1	1	[3]	[3]	[3]	[3]	[3]	1	12	13
Credit allowed in case of certain separated spouses	---	13	13	14	14	15	16	16	15	16	16	68	147
Elimination of disqualified investment income test	---	295	294	244	259	274	276	274	265	264	263	1,366	2,708
Application of earned income tax credit in possessions of United States	---	---	696	703	720	737	753	769	785	802	819	2,855	6,783
Child tax credit - fully refundable child credit, and $3,000 for children younger than 4 years old (sunset 12/31/20) and payments to Possessions	---	32,599	32,980	715	728	741	745	741	376	380	384	67,762	70,389
Refundability and enhancement of child and dependent care tax credit	---	5,227	1,756	---	---	---	---	---	---	---	---	6,982	6,982

[2] Loss of less than $500,000.

[3] Increase in outlays of less than $500,000.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing provisions of the bill include increased tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 9, 2019.

Hon. Richard Neal,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3300, the Economic Mobility Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Shannon Mok.

Sincerely,

Phillip L. Swagel,
Director.

Enclosure.

At a Glance

H.R. 3300, Economic Mobility Act of 2019
As ordered reported by the House Committee on Ways and Means on June 20, 2019

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	**0**	**94,161**	**102,138**
Revenues	**-637**	**-27,495**	**-29,136**
Deficit Effect	**637**	**121,656**	**131,274**
Spending Subject to Appropriation (Outlays)	**0**	**0**	**0**

		Mandate Effects	
Statutory pay-as-you-go procedures apply?	**Yes**	Contains intergovernmental mandate?	**No**
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	**No**	Contains private-sector mandate?	**No**

The bill would
- Increase the Earned Income Tax Credit (EITC) for workers without qualifying children; expand eligibility for the EITC; increase the amount of the child tax credit for young children; allow the full amount of the child tax credit to be refunded; and make payments to U.S. possessions for their costs related to the EITC and child tax credit
- Increase tax benefits for taxpayers with child and dependent care expenses
- Exclude expenses for certain fringe benefits from unrelated business taxable income

Estimated budgetary effects would primarily stem from
- An increase in the child tax credit for young children and allowing the full amount of the credit to be refunded
- An expansion of the EITC for workers without qualifying children
- An expansion of the child and dependent care credit

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates such estimates into its cost estimates of the effects of legislation. All of the estimates for the provisions of H.R. 3300 were provided by JCT.

Detailed estimate begins on the next page.

Bill Summary: H.R. 3300 would increase assistance provided to taxpayers through tax credits and make other changes to the tax code. Provisions of the bill would increase the amount of EITC for workers without qualifying children, expand eligibility for the EITC, increase the amount of the child tax credit for young children, and make the child tax credit fully refundable. It would also increase the amount of the child and dependent care tax credit and the exclusion for employer-provided dependent care assistance. The Secretary would make payments to U.S. possessions related to their costs of the EITC and the child tax credit. In addition, the bill would exclude expenses for certain transportation and parking fringe benefits from the unrelated business taxable income of tax-exempt organizations.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3300

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
	Decreases (−) in Revenues												
Title I. EITC	−149	−2,547	−1,839	−108	−115	−120	−119	−120	−119	−119	−121	−4,880	−5,477
Title II. Child Tax Credit	0	−8,888	−1,004	0	0	0	0	0	0	0	0	−9,893	−9,893
Title III. Dependent Care Assistance	−389	−7,092	−3,840	−515	0	0	0	0	0	0	0	−11,836	−11,836
Title IV. Certain Fringe Benefit Expenses	−99	−146	−145	−156	−166	−175	−186	−197	−208	−220	−234	−887	−1,931
Total Revenues	−637	−18,672	−6,827	−779	−281	−295	−305	−317	−327	−339	−355	−27,495	−29,136
	Increases in Direct Spending												
Title I. EITC:													
Estimated Budget Authority	0	7,832	8,605	962	994	1,026	1,045	1,059	1,065	1,082	1,099	19,417	24,767
Estimated Outlays	0	7,832	8,605	962	994	1,026	1,045	1,059	1,065	1,082	1,099	19,417	24,767
Title II. Child Tax Credit:													
Estimated Budget Authority	0	32,599	32,980	715	728	741	745	741	376	380	384	67,762	70,389
Estimated Outlays	0	32,599	32,980	715	728	741	745	741	376	380	384	67,762	70,389
Title III. Dependent Care Assistance:													
Estimated Budget Authority	0	5,227	1,756	0	0	0	0	0	0	0	0	6,982	6,982
Estimated Outlays	0	5,227	1,756	0	0	0	0	0	0	0	0	6,982	6,982
Total Outlays	0	45,658	43,341	1,677	1,722	1,767	1,790	1,800	1,441	1,462	1,483	94,161	102,138
	Net Increase in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit	637	64,330	50,168	2,456	2,003	2,062	2,095	2,117	1,768	1,801	1,838	121,656	131,274

Source: Staff of the Joint Committee on Taxation.
Components may not sum to totals because of rounding.

Estimated Federal cost: The estimated budgetary effect of H.R. 3300 is shown in Table 1. The costs of the legislation fall within budget functions 500 (education, training, employment, and social services) and 600 (income security).

Basis of estimate: The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates such estimates into its cost estimates of the effects of legislation. All of the estimates for the provisions of H.R. 3300 were provided by JCT.

Revenues: JCT estimates enacting the bill would decrease revenues by $29.1 billion over the 2019–2029 period.

Title I. Earned Income Tax Credit. Title I would increase the EITC for workers without qualifying children for tax years 2019 and 2020 and permanently expand eligibility for the EITC. JCT estimates that those provisions would reduce revenues by $5.5 billion over the 2019–2029 period.

Title II. Child Tax Credit. Title II would increase the amount of the child tax credit for children under age four for tax years 2019 and 2020. JCT estimates that the provision would reduce revenues by $9.9 billion over the 2019–2029 period.

Title III. Dependent Care Assistance. Title III would increase the child and dependent care credit for tax years 2019 and 2020 and increase the exclusion for employer-provided dependent care assistance for tax years 2020 and 2021. JCT estimates that those provisions would reduce revenues by $11.8 billion over the 2019–2029 period.

Title IV. Certain Fringe Benefit Expenses. Title IV would exclude expenses for certain fringe benefits in unrelated business taxable income. JCT estimates that the provision would reduce revenues by $1.9 billion over the 2019–2029 period.

Direct spending: JCT estimates enacting the bill would increase direct spending by $102.1 billion over the 2019–2029 period.

Title I. Earned Income Tax Credit. Title I would temporarily increase the EITC for workers without qualifying children, permanently expand eligibility for the EITC, and make payments to U.S. possessions for their costs related to the EITC. The EITC is refundable; if the credit exceeds the rest of the filer's income tax liability, the government pays all or some portion of that excess to the taxpayer. JCT estimates that those provisions would increase direct spending by $24.8 billion over the 2019–2029 period.

Title II. Child Tax Credit. Title II would increase the amount of the child tax credit for children under age four and make the credit fully refundable for tax years 2019 and 2020. It would also make payments to U.S. possessions for their costs related to the child tax credit. JCT estimates that those provisions would increase direct spending by $70.4 billion over the 2019–2029 period.

Title III. Dependent Care Assistance. Title III would increase the child and dependent care credit and make the credit refundable for tax years 2019 and 2020. JCT estimates that the provision would increase direct spending by $7 billion over the 2019–2029 period.

Uncertainty

These budgetary estimates are uncertain because they rely on underlying projections and other estimates that are uncertain. Specifically, they are based in part on CBO's economic projections for the next decade under current law, and on estimates of changes in taxpayers' behavior in response to changes in tax rules.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown above in Table 1.

Increase in long-term deficits: JCT estimates that enacting H.R. 3300 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates: JCT has reviewed H.R. 3300 and determined that it contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Estimate prepared by: Revenues: Staff of the Joint Committee on Taxation and Shannon Mok; Mandates: Staff of the Joint Committee on Taxation.

Estimate reviewed by: Joshua Shakin, Chief, Revenue Estimating Unit; John McClelland, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI, Clause 5(b)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that "It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase." The Committee, after

careful review, states that the bill does not involve any retroactive Federal income tax rate increase within the meaning of the rule.

E. Tax Complexity Analysis

Section 4022(b) of Public Law 105–206, the Internal Revenue Service Restructuring and Reform Act of 1998 (the "RRA"), requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is required under section 4022(b) of the RRA for two provisions, sections 201 and 203 of the bill, which provide for temporary modifications of the child tax credit for 2019 and 2020.

LIST OF PROVISIONS IN THE COMPLEXITY ANALYSIS

Section 201 of the bill temporarily modifies the child tax credit to make it fully refundable. For taxable years beginning in 2019 or 2020, the child tax credit is generally refundable up to $2,000 per child, without regard to the amount of earned income or Social Security taxes paid.

Section 203 of the bill temporarily increases the amount of the child tax credit for certain qualifying children. For taxable years beginning in 2019 or 2020, the credit in the case of a qualifying child who has not attained age four as of the close of the calendar year is increased to $3,000.

NUMBER OF AFFECTED TAXPAYERS

It is estimated that the provision will affect approximately 22 million tax returns.

DISCUSSION

The IRS will need to modify its forms and publications to reflect the provision. It is not anticipated that taxpayers will need to keep additional records due to the provision, or that compliance with the provision will impose any costs on taxpayers. Regulatory guidance will not be necessary to implement this provision. The provision should not result in an increase in disputes with the IRS. The provision should not, other than as previously stated, have any effect on the IRS.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee, after careful review, states that no provision of the bill contains any congressional earmark, limited tax benefit, or limited tariff benefit within the meaning of the rule.

G. Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to section 6104 of title 31, United States Code.

H. Hearings

In compliance with Sec. 103(i) of H. Res. 6 (116th Congress), the following hearing was used to develop or consider H.R. 3301:

The full Committee hearing on the 2017 Tax Law and Who It Left Behind, held on March 27, 2019.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—DETERMINATION OF TAX LIABILITY

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart A—NONREFUNDABLE PERSONAL CREDITS

SEC. 21. EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

(a) Allowance of credit.—

(1) IN GENERAL.—In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by such individual during the taxable year.

(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term "applicable percentage" means 35 percent reduced (but not below 20 percent) by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $15,000.

(b) DEFINITIONS OF QUALIFYING INDIVIDUAL AND EMPLOYMENT-RELATED EXPENSES.—For purposes of this section—

(1) QUALIFYING INDIVIDUAL.—The term "qualifying individual" means—

(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

(B) a dependent of the taxpayer (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B)) who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.

(2) EMPLOYMENT-RELATED EXPENSES.—

(A) IN GENERAL.—The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

(i) expenses for household services, and

(ii) expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.

(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of—

(i) a qualifying individual described in paragraph (1)(A), or

(ii) a qualifying individual (not described in paragraph (1)(A)) who regularly spends at least 8 hours each day in the taxpayer's household.

(C) DEPENDENT CARE CENTERS.—Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if—

(i) such center complies with all applicable laws and regulations of a State or unit of local government, and

(ii) the requirements of subparagraph (B) are met.

(D) DEPENDENT CARE CENTER DEFINED.—For purposes of this paragraph, the term "dependent care center" means any facility which—

(i) provides care for more than six individuals (other than individuals who reside at the facility), and

(ii) receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit).

(c) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

(1) $3,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

(2) $6,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

(d) EARNED INCOME LIMITATION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

(A) in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

(B) in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

(2) SPECIAL RULE FOR SPOUSE WHO IS A STUDENT OR INCAPABLE OF CARING FOR HIMSELF.—In the case of a spouse who is a student or a qualifying individual described in subsection (b)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

(A) $250 if subsection (c)(1) applies for the taxable year, or

(B) $500 if subsection (c)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(e) SPECIAL RULES.—For purposes of this section—

(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit

shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

(3) MARITAL STATUS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

(A) an individual who is married and who files a separate return—

(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) furnishes over half of the cost of maintaining such household during the taxable year, and

(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC..—If—

(A) section 152(e) applies to any child with respect to any calendar year, and

(B) such child is under the age of 13 or is physically or mentally incapable of caring for himself,

in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual described in subparagraph (A) or (B) of subsection (b)(1) (whichever is appropriate) with respect to the custodial parent (as defined in section 152(e)(4)(A)), and shall not be treated as a qualifying individual with respect to the noncustodial parent.

(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

(A) with respect to whom, for the taxable year, a deduction under section 151(c) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

(B) who is a child of the taxpayer (within the meaning of section 152(f)(1)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(7) STUDENT.—The term "student" means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

(8) EDUCATIONAL ORGANIZATION.—The term "educational organization" means an educational organization described in section 170(b)(1)(A)(ii).

(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the

name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.

(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(g) SPECIAL RULES FOR 2019 AND 2020.—In the case of any taxable year beginning in 2019 or 2020—

(1) CREDIT MADE REFUNDABLE.—In the case of an individual other than a nonresident alien, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).

(2) INCREASE IN APPLICABLE PERCENTAGE.—Subsection (a)(2) shall be applied—

(A) by substituting "50 percent" for "35 percent ", and

(B) by substituting "$120,000" for "$15,000".

(3) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Subsection (c) shall be applied—

(A) by substituting "$6,000" for "$3,000" in paragraph (1) thereof, and

(B) by substituting "twice the amount in effect under paragraph (1)" for "$6,000" in paragraph (2) thereof.

(4) INFLATION ADJUSTMENT OF DOLLAR AMOUNTS.—In the case of any taxable year beginning after 2019, the $120,000 amount in paragraph (2)(B) and the $6,000 amount in paragraph (3)(A) shall each be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2018" for "2016" in subparagraph (A)(ii) thereof.

If any increase determined under this paragraph is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

(5) INCOME LIMITATION.—

(A) IN GENERAL.—Paragraphs (1) through (4) of this subsection shall not apply to any taxpayer for any taxable year if the modified adjusted gross income of such taxpayer for such taxable year exceeds $1,000,000.

(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term "modified adjusted gross income" means adjusted gross income determined without regard to sections 911, 931, and 933.

* * * * * * *

SEC. 24. CHILD TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with

respect to each qualifying child of the taxpayer for which the taxpayer is allowed a deduction under section 151 an amount equal to $1,000.

(b) LIMITATIONS.—

(1) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term "modified adjusted gross income" means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term "threshold amount" means—

(A) $110,000 in the case of a joint return,

(B) $75,000 in the case of an individual who is not married, and

(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

(c) QUALIFYING CHILD.—For purposes of this section—

(1) IN GENERAL.—The term "qualifying child" means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.

(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term "qualifying child" shall not include any individual who would not be a dependent if subparagraph (A) of section 152(b)(3) were applied without regard to all that follows "resident of the United States".

(d) PORTION OF CREDIT REFUNDABLE.—

(1) IN GENERAL.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a) or

(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the greater of—

(i) 15 percent of so much of the taxpayer's earned income (within the meaning of section 32) which is taken into account in computing taxable income for the taxable year as exceeds $3,000, or

(ii) in the case of a taxpayer with 3 or more qualifying children, the excess (if any) of—

(I) the taxpayer's social security taxes for the taxable year, over

(II) the credit allowed under section 32 for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a). For purposes of subparagraph (B), any amount excluded from gross income by rea-

son of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

(2) SOCIAL SECURITY TAXES.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "social security taxes" means, with respect to any taxpayer for any taxable year—

(i) the amount of the taxes imposed by sections 3101 and 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

(ii) 50 percent of the taxes imposed by section 1401 on the self-employment income of the taxpayer for the taxable year, and

(iii) 50 percent of the taxes imposed by section 3211(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

(B) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term "social security taxes" shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

(C) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(*l*) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A)(i) shall be treated as taxes referred to in such subparagraph.

(3) EXCEPTION FOR TAXPAYERS EXCLUDING FOREIGN EARNED INCOME.—Paragraph (1) shall not apply to any taxpayer for any taxable year if such taxpayer elects to exclude any amount from gross income under section 911 for such taxable year.

(e) IDENTIFICATION REQUIREMENTS.—

(1) QUALIFYING CHILD IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the name and taxpayer identification number of such qualifying child on the return of tax for the taxable year and such taxpayer identification number was issued on or before the due date for filing such return.

(2) TAXPAYER IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section if the taxpayer identification number of the taxpayer was issued after the due date for filing the return for the taxable year.

(f) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

(g) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR RECKLESS CLAIMS.—

(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

(B) DISALLOWANCE PERIOD.—For purposes of subparagraph (A), the disallowance period is—

(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

(h) SPECIAL RULES FOR TAXABLE YEARS 2018 THROUGH 2025.—

(1) IN GENERAL.—In the case of a taxable year beginning after December 31, 2017, and before January 1, 2026, this section shall be applied as provided in paragraphs (2) through (7).

⟦(2) CREDIT AMOUNT.—Subsection (a) shall be applied by substituting "$2,000" for "$1,000".⟧

(2) CREDIT AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (a) shall be applied by substituting "$2,000" for "$1,000".

(B) TAXABLE YEARS BEGINNING IN 2019 AND 2020.—In the case of any taxable year beginning in 2019 or 2020, subsection (a) shall be applied by substituting "$2,000 ($3,000 in the case of a qualifying child who has not attained age 4 as of the close of the calendar year in which the taxable year of the taxpayer begins)" for "$1,000".

(3) LIMITATION.—In lieu of the amount determined under subsection (b)(2), the threshold amount shall be $400,000 in the case of a joint return ($200,000 in any other case).

(4) PARTIAL CREDIT ALLOWED FOR CERTAIN OTHER DEPENDENTS.—

(A) IN GENERAL.—The credit determined under subsection (a) (after the application of paragraph (2)) shall be increased by $500 for each dependent of the taxpayer (as defined in section 152) other than a qualifying child described in subsection (c).

(B) EXCEPTION FOR CERTAIN NONCITIZENS.—Subparagraph (A) shall not apply with respect to any individual who would not be a dependent if subparagraph (A) of section 152(b)(3) were applied without regard to all that follows "resident of the United States".

(C) CERTAIN QUALIFYING CHILDREN.—In the case of any qualifying child with respect to whom a credit is not allowed under this section by reason of paragraph (7), such child shall be treated as a dependent to whom subparagraph (A) applies.

(5) MAXIMUM AMOUNT OF REFUNDABLE CREDIT.—

(A) IN GENERAL.—The amount determined under subsection (d)(1)(A) with respect to any qualifying child shall

not exceed $1,400, and such subsection shall be applied without regard to paragraph (4) of this subsection.

(B) ADJUSTMENT FOR INFLATION.—In the case of a taxable year beginning after 2018, the $1,400 amount in subparagraph (A) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2017" for "2016" in subparagraph (A)(ii) thereof.

If any increase under this clause is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

(6) EARNED INCOME THRESHOLD FOR REFUNDABLE CREDIT.—Subsection (d)(1)(B)(i) shall be applied by substituting "$2,500" for "$3,000".

(7) SOCIAL SECURITY NUMBER REQUIRED.—No credit shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the social security number of such child on the return of tax for the taxable year. For purposes of the preceding sentence, the term "social security number" means a social security number issued to an individual by the Social Security Administration, but only if the social security number is issued—

(A) to a citizen of the United States or pursuant to subclause (I) (or that portion of subclause (III) that relates to subclause (I)) of section 205(c)(2)(B)(i) of the Social Security Act, and

(B) before the due date for such return.

(8) CREDIT FULLY REFUNDABLE FOR 2019 AND 2020.—In the case of an individual other than a nonresident alien, for any taxable year beginning in 2019 or 2020—

(A) paragraph (5) of this subsection shall not apply, and

(B) the increase determined under the first sentence of subsection (d)(1) shall be the amount determined under subparagraph (A) of such subsection (determined without regard to paragraph (4) of this subsection).

* * * * * * *

Subpart C—REFUNDABLE CREDITS

* * * * * * *

SEC. 32. EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

(A) the credit percentage of the earned income amount, over

(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

(2) AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the earned income amount and the phaseout amount shall be determined as follows:

(B) JOINT RETURNS.—In the case of a joint return filed by an eligible individual and such individual's spouse, the phaseout amount determined under subparagraph (A) shall be increased by $5,000.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means—

(i) any individual who has a qualifying child for the taxable year, or

(ii) any other individual who does not have a qualifying child for the taxable year, if—

(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

(II) such individual (or, if the individual is married, either the individual or the individual's spouse) has attained age 25 but not attained age 65 before the close of the taxable year, and

(III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

[For purposes of the preceding sentence, marital status shall be determined under section 7703.]

(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

(C) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term "eligible individual" does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

(D) LIMITATION ON ELIGIBILITY OF NONRESIDENT ALIENS.—The term "eligible individual" shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United

States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

(E) IDENTIFICATION NUMBER REQUIREMENT.—No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—

(i) such individual's taxpayer identification number, and

(ii) if the individual is married [(within the meaning of section 7703)], the taxpayer identification number of such individual's spouse.

[(F) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—No credit shall be allowed under this section to any eligible individual who has one or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).]

(2) EARNED INCOME.—(A) The term "earned income" means—

(i) wages, salaries, tips, and other employee compensation, but only if such amounts are includible in gross income for the taxable year, plus

(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

(B) For purposes of subparagraph (A)—

(i) the earned income of an individual shall be computed without regard to any community property laws,

(ii) no amount received as a pension or annuity shall be taken into account,

(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account,

(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account,

(v) no amount described in subparagraph (A) received for service performed in work activities as defined in paragraph (4) or (7) of section 407(d) of the Social Security Act to which the taxpayer is assigned under any State program under part A of title IV of such Act shall be taken into account, but only to the extent such amount is subsidized under such State program, and

(vi) a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.

(3) QUALIFYING CHILD.—

(A) IN GENERAL.—The term "qualifying child" means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

(B) MARRIED INDIVIDUAL.—The term "qualifying child" shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable

year with respect to such individual (or would be so entitled but for section 152(e)).

(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

(D) IDENTIFICATION REQUIREMENTS.—

(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).

(4) TREATMENT OF MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.—For purposes of paragraphs (1)(A)(ii)(I) and (3)(C), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty with the Armed Forces of the United States. For purposes of the preceding sentence, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

(d) [MARRIED INDIVIDUALS.—].—[In the case of] *MARRIED INDIVIDUALS.—*

(1) IN GENERAL.—In the case of an individual who is married [(within the meaning of section 7703)], this section shall apply only if a joint return is filed for the taxable year under section 6013.

(2) DETERMINATION OF MARITAL STATUS.—For purposes of this section—

(A) IN GENERAL.—Except as provided in subparagraph (B), marital status shall be determined under section 7703(a).

(B) SPECIAL RULE FOR SEPARATED SPOUSE.—An individual shall not be treated as married if such individual—

(i) is married (as determined under section 7703(a)) and does not file a joint return for the taxable year,

(ii) lives with a qualifying child of the individual for more than one-half of such taxable year, and

(iii)(I) during the last 6 months of such taxable year, does not have the same principal place of abode as the individual's spouse, or

(II) has a decree, instrument, or agreement (other than a decree of divorce) described in section 121(d)(3)(C) with respect to the individual's spouse and is not a member of the same household with the individual's spouse by the end of the taxable year.

(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b).

⟦(i) DENIAL OF CREDIT FOR INDIVIDUALS HAVING EXCESSIVE INVESTMENT INCOME.—

⟦(1) IN GENERAL.—No credit shall be allowed under subsection (a) for the taxable year if the aggregate amount of disqualified income of the taxpayer for the taxable year exceeds $2,200.

⟦(2) DISQUALIFIED INCOME.—For purposes of paragraph (1), the term "disqualified income" means—

⟦(A) interest or dividends to the extent includible in gross income for the taxable year,

⟦(B) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter,

⟦(C) the excess (if any) of—

⟦(i) gross income from rents or royalties not derived in the ordinary course of a trade or business, over

⟦(ii) the sum of—

⟦(I) the deductions (other than interest) which are clearly and directly allocable to such gross income, plus

⟦(II) interest deductions properly allocable to such gross income,

⟦(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

⟦(E) the excess (if any) of—

⟦(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

⟦(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term "passive activity" has the meaning given such term by section 469.⟧

(j) INFLATION ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxable year beginning after 2015, each of the dollar amounts in ⟦subsections (b)(2) and (i)(1)⟧ *subsection (b)(2)* shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year

begins, determined by substituting in subparagraph (A)(ii) thereof—

(i) in the case of amounts in ⟦subsections (b)(2)(A) and (i)(1)⟧ *subsection (b)(2)(A)*, "calendar year 1995" for "calendar year 2016", and

(ii) in the case of the $5,000 amount in subsection (b)(2)(B), "calendar year 2008" for "calendar year 2016".

(2) ⟦ROUNDING.—

⟦(A) IN GENERAL.—If any dollar amount⟧ *ROUNDING.—If any dollar amount* in subsection (b)(2)(A) (after being increased under subparagraph (B) thereof), after being increased under paragraph (1), is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

⟦(B) DISQUALIFIED INCOME THRESHOLD AMOUNT.—If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.⟧

(k) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR RECKLESS CLAIMS.—

(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

(B) DISALLOWANCE PERIOD.—For purposes of paragraph (1), the disallowance period is—

(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

(l) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937,

(2) title V of the Housing Act of 1949,

(3) section 101 of the Housing and Urban Development Act of 1965,

(4) sections 221(d)(3), 235, and 236 of the National Housing Act, and

(5) the Food and Nutrition Act of 2008,

any refund made to an individual (or the spouse of an individual) by reason of this section shall not be treated as income (and shall

not be taken into account in determining resources for the month of its receipt and the following month).

(m) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(E) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act) on or before the due date for filing the return for the taxable year.

(n) SPECIAL RULES FOR INDIVIDUALS WITHOUT QUALIFYING CHILDREN.—In the case of any taxable year beginning in 2019 or 2020—

(1) CREDIT ALLOWED FOR CERTAIN INDIVIDUALS OVER AGE 18.—

(A) IN GENERAL.—Except in the case of a full-time student (or, in the case of a married individual, except if both the individual and the individual's spouse are full-time students), subsection (c)(1)(A)(ii)(II) shall be applied by substituting "age 19" for "age 25".

(B) FULL-TIME STUDENT.—For purposes of this paragraph, the term "full-time student" means, with respect to a taxable year, an individual who is an eligible student (as defined in section 25A(b)(3)) during at least 5 calendar months during the taxable year.

(2) INCREASE IN MAXIMUM AGE FOR CREDIT.—Subsection (c)(1)(A)(ii)(II) shall be applied by substituting "age 66" for "age 65".

(3) INCREASE IN CREDIT AND PHASEOUT PERCENTAGES.—The table contained in subsection (b)(1) shall be applied by substituting "15.3" for "7.65" each place it appears therein.

(4) INCREASE IN EARNED INCOME AND PHASEOUT AMOUNTS.—

(A) IN GENERAL.—The table contained in subsection (b)(2)(A) shall be applied—

(i) by substituting "$9,570" for "$4,220", and

(ii) by substituting "$11,310" for "$5,280".

(B) COORDINATION WITH INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2019, the $9,570 and $11,310 amounts in subparagraph (A) shall each be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2018" for "2016" in subparagraph (A)(ii) thereof.

(ii) ROUNDING.—If any increase under clause (i) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

(iii) COORDINATION WITH OTHER INFLATION ADJUSTMENT.—Subsection (j) shall not apply to any dollar amount specified in this paragraph.

Subchapter B—COMPUTATION OF TAXABLE INCOME

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 129. DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) EXCLUSION.—

(1) IN GENERAL.—Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to such employee if the assistance is furnished pursuant to a program which is described in subsection (d).

(2) LIMITATION OF EXCLUSION.—

(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e).

(D) SPECIAL RULE FOR 2020 AND 2021.—In the case of any taxable year beginning in 2020 or 2021—

(i) IN GENERAL.—Subparagraph (A) shall be applied be substituting "$10,500 (half such dollar amount" for "$5,000 ($2,500".

(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2020, the $10,500 amount in clause (i) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2019" for "2016" in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence which is not a multiple of $50, shall be rounded to the nearest multiple of $50.

(b) EARNED INCOME LIMITATION.—

(1) IN GENERAL.—The amount excluded from the income of an employee under subsection (a) for any taxable year shall not exceed—

(A) in the case of an employee who is not married at the close of such taxable year, the earned income of such employee for such taxable year, or

(B) in the case of an employee who is married at the close of such taxable year, the lesser of—

(i) the earned income of such employee for such taxable year, or

(ii) the earned income of the spouse of such employee for such taxable year.

(2) SPECIAL RULE FOR CERTAIN SPOUSES.—For purposes of paragraph (1), the provisions of section 21(d)(2) shall apply in determining the earned income of a spouse who is a student or incapable of caring for himself.

(c) PAYMENTS TO RELATED INDIVIDUALS.—No amount paid or incurred during the taxable year of an employee by an employer in providing dependent care assistance to such employee shall be excluded under subsection (a) if such amount was paid or incurred to an individual—

(1) with respect to whom, for such taxable year, a deduction is allowable under section 151(c) (relating to personal exemptions for dependents) to such employee or the spouse of such employee, or

(2) who is a child of such employee (within the meaning of section 152(f)(1)) under the age of 19 at the close of such taxable year.

(d) DEPENDENT CARE ASSISTANCE PROGRAM.—

(1) IN GENERAL.—For purposes of this section a dependent care assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with dependent care assistance which meets the requirements of paragraphs (2) through (8) of this subsection. If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees.

(2) DISCRIMINATION.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)) or their dependents.

(3) ELIGIBILITY.—The program shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees described in paragraph (2), or their dependents.

(4) PRINCIPAL SHAREHOLDERS OR OWNERS.—Not more than 25 percent of the amounts paid or incurred by the employer for dependent care assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

(5) NO FUNDING REQUIRED.—A program referred to in paragraph (1) is not required to be funded.

(6) NOTIFICATION OF ELIGIBLE EMPLOYEES.—Reasonable notification of the availability and terms of the program shall be provided to eligible employees.

(7) STATEMENT OF EXPENSES.—The plan shall furnish to an employee, on or before January 31, a written statement showing the amounts paid or expenses incurred by the employer in providing dependent care assistance to such employee during the previous calendar year.

(8) BENEFITS.—

(A) IN GENERAL.—A plan meets the requirements of this paragraph if the average benefits provided to employees

who are not highly compensated employees under all plans of the employer is at least 55 percent of the average benefits provided to highly compensated employees under all plans of the employer.

(B) SALARY REDUCTION AGREEMENTS.—For purposes of subparagraph (A), in the case of any benefits provided through a salary reduction agreement, a plan may disregard any employees whose compensation is less than $25,000. For purposes of this subparagraph, the term "compensation" has the meaning given such term by section 414(q)(4), except that, under rules prescribed by the Secretary, an employer may elect to determine compensation on any other basis which does not discriminate in favor of highly compensated employees.

(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) DEPENDENT CARE ASSISTANCE.—The term "dependent care assistance" means the payment of, or provision of, those services which if paid for by the employee would be considered employment-related expenses under section 21(b)(2) (relating to expenses for household and dependent care services necessary for gainful employment).

(2) EARNED INCOME.—The term "earned income" shall have the meaning given such term in section 32(c)(2), but such term shall not include any amounts paid or incurred by an employer for dependent care assistance to an employee.

(3) EMPLOYEE.—The term "employee" includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

(4) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (3).

(5) ATTRIBUTION RULES.—

(A) OWNERSHIP OF STOCK.—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)).

(B) INTEREST IN UNINCORPORATED TRADE OR BUSINESS.—The interest of an employee in a trade or business which

is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

(6) UTILIZATION TEST NOT APPLICABLE.—A dependent care assistance program shall not be held or considered to fail to meet any requirements of subsection (d) (other than paragraphs (4) and (8) thereof) merely because of utilization rates for the different types of assistance made available under the program.

(7) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the employee under any other section of this chapter for any amount excluded from the gross income of the employee by reason of this section.

(8) TREATMENT OF ONSITE FACILITIES.—In the case of an onsite facility maintained by an employer, except to the extent provided in regulations, the amount of dependent care assistance provided to an employee excluded with respect to any dependent shall be based on—

(A) utilization of the facility by a dependent of the employee, and

(B) the value of the services provided with respect to such dependent.

(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No amount paid or incurred by an employer for dependent care assistance provided to an employee shall be excluded from the gross income of such employee unless—

(A) the name, address, and taxpayer identification number of the person performing the services are included on the return to which the exclusion relates, or

(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return to which the exclusion relates.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

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Subchapter F—EXEMPT ORGANIZATIONS

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PART III—TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

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SEC. 512. UNRELATED BUSINESS TAXABLE INCOME.

(a) DEFINITION.—For purposes of this title—

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regu-

larly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

(2) SPECIAL RULE FOR FOREIGN ORGANIZATIONS.—In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be—

(A) its unrelated business taxable income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, plus

(B) its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States.

(3) SPECIAL RULES APPLICABLE TO ORGANIZATIONS DESCRIBED IN PARAGRAPH (7), (9), OR (17) OF SECTION 501(C).—

(A) GENERAL RULE.—In the case of an organization described in paragraph (7), (9), or (17) of section 501(c), the term "unrelated business taxable income" means the gross income (excluding any exempt function income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), both computed with the modifications provided in paragraphs (6), (10), (11), and (12) of subsection (b). For purposes of the preceding sentence, the deductions provided by sections 243 and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.

(B) EXEMPT FUNCTION INCOME.—For purposes of subparagraph (A), the term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

(i) for a purpose specified in section 170(c)(4), or

(ii) in the case of an organization described in paragraph (9) or (17) of section 501(c), to provide for the payment of life, sick, accident, or other benefits,

including reasonable costs of administration directly connected with a purpose described in clause (i) or (ii). If during the taxable year, an amount which is attributable to income so set aside is used for a purpose other than that described in clause (i) or (ii), such amount shall be included, under subparagraph (A), in unrelated business taxable income for the taxable year.

(C) APPLICABILITY TO CERTAIN CORPORATIONS DESCRIBED IN SECTION 501(C)(2).—In the case of a corporation described in section 501(c)(2), the income of which is payable to an

organization described in paragraph (7), (9), or (17) of section 501(c), subparagraph (A) shall apply as if such corporation were the organization to which the income is payable. For purposes of the preceding sentence, such corporation shall be treated as having exempt function income for a taxable year only if it files a consolidated return with such organization for such year.

(D) NONRECOGNITION OF GAIN.—If property used directly in the performance of the exempt function of an organization described in paragraph (7), (9), or (17) of section 501(c) is sold by such organization, and within a period beginning 1 year before the date of such sale, and ending 3 years after such date, other property is purchased and used by such organization directly in the performance of its exempt function, gain (if any) from such sale shall be recognized only to the extent that such organization's sales price of the old property exceeds the organization's cost of purchasing the other property. For purposes of this subparagraph, the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, shall be treated as the sale of such property, and rules similar to the rules provided by subsections (b), (c), (e), and (j) of section 1034 (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) shall apply.

(E) LIMITATION ON AMOUNT OF SETASIDE IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9) OR (17) OF SECTION 501(C).—

(i) IN GENERAL.—In the case of any organization described in paragraph (9) or (17) of section 501(c), a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that such set-aside does not result in an amount of assets set aside for such purpose in excess of the account limit determined under section 419A (without regard to subsection (f)(6) thereof) for the taxable year (not taking into account any reserve described in section 419A(c)(2)(A) for post-retirement medical benefits).

(ii) TREATMENT OF EXISTING RESERVES FOR POST-RETIREMENT MEDICAL OR LIFE INSURANCE BENEFITS.—

(I) Clause (i) shall not apply to any income attributable to an existing reserve for post-retirement medical or life insurance benefits.

(II) For purposes of subclause (I), the term "reserve for post-retirement medical or life insurance benefits" means the greater of the amount of assets set aside for purposes of post-retirement medical or life insurance benefits to be provided to covered employees as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 or on July 18, 1984.

(III) All payments during plan years ending on or after the date of the enactment of the Tax Reform Act of 1984 of post-retirement medical benefits or life insurance benefits shall be charged

against the reserve referred to in subclause (II). Except to the extent provided in regulations prescribed by the Secretary, all plans of an employer shall be treated as 1 plan for purposes of the preceding sentence.

(iii) TREATMENT OF TAX EXEMPT ORGANIZATIONS.—This subparagraph shall not apply to any organization if substantially all of the contributions to such organization are made by employers who were exempt from tax under this chapter throughout the 5-taxable year period ending with the taxable year in which the contributions are made.

(4) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(19).—In the case of an organization described in section 501(c)(19), the term "unrelated business taxable income" does not include any amount attributable to payments for life, sick, accident, or health insurance with respect to members of such organizations or their dependents which is set aside for the purpose of providing for the payment of insurance benefits or for a purpose specified in section 170(c)(4). If an amount set aside under the preceding sentence is used during the taxable year for a purpose other than a purpose described in the preceding sentence, such amount shall be included, under paragraph (1), in unrelated business taxable income for the taxable year.

(5) DEFINITION OF PAYMENTS WITH RESPECT TO SECURITIES LOANS.—

(A) The term "payments with respect to securities loans" includes all amounts received in respect of a security (as defined in section 1236(c)) transferred by the owner to another person in a transaction to which section 1058 applies (whether or not title to the security remains in the name of the lender) including—

(i) amounts in respect of dividends, interest, or other distributions,

(ii) fees computed by reference to the period beginning with the transfer of securities by the owner and ending with the transfer of identical securities back to the transferor by the transferee and the fair market value of the security during such period,

(iii) income from collateral security for such loan, and

(iv) income from the investment of collateral security.

(B) Subparagraph (A) shall apply only with respect to securities transferred pursuant to an agreement between the transferor and the transferee which provides for—

(i) reasonable procedures to implement the obligation of the transferee to furnish to the transferor, for each business day during such period, collateral with a fair market value not less than the fair market value of the security at the close of business on the preceding business day,

(ii) termination of the loan by the transferor upon notice of not more than 5 business days, and

(iii) return to the transferor of securities identical to the transferred securities upon termination of the loan.

(6) SPECIAL RULE FOR ORGANIZATION WITH MORE THAN 1 UNRELATED TRADE OR BUSINESS.—In the case of any organization with more than 1 unrelated trade or business—

(A) unrelated business taxable income, including for purposes of determining any net operating loss deduction, shall be computed separately with respect to each such trade or business and without regard to subsection (b)(12),

(B) the unrelated business taxable income of such organization shall be the sum of the unrelated business taxable income so computed with respect to each such trade or business, less a specific deduction under subsection (b)(12), and

(C) for purposes of subparagraph (B), unrelated business taxable income with respect to any such trade or business shall not be less than zero.

[(7) INCREASE IN UNRELATED BUSINESS TAXABLE INCOME BY DISALLOWED FRINGE.—Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B)). The preceding sentence shall not apply to the extent the amount paid or incurred is directly connected with an unrelated trade or business which is regularly carried on by the organization. The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities.]

(b) MODIFICATIONS.—The modifications referred to in subsection (a) are the following:

(1) There shall be excluded all dividends, interest, payments with respect to securities loans (as defined in subsection (a)(5)), amounts received or accrued as consideration for entering into agreements to make loans, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property, and all deductions directly connected with such income.

(3) In the case of rents—

(A) Except as provided in subparagraph (B), there shall be excluded—

(i) all rents from real property (including property described in section 1245(a)(3)(C)), and

(ii) all rents from personal property (including for purposes of this paragraph as personal property any property described in section 1245(a)(3)(B)) leased with such real property, if the rents attributable to

such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—

(i) if more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A)(ii), or

(ii) if the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(4) Notwithstanding paragraph (1), (2), (3), or (5), in the case of debt-financed property (as defined in section 514) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under section 514(a)(1), and there shall be allowed, as a deduction, the amount ascertained under section 514(a)(2).

(5) There shall be excluded all gains or losses from the sale, exchange, or other disposition of property other than—

(A) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, or

(B) property held primarily for sale to customers in the ordinary course of the trade or business.

There shall also be excluded all gains or losses recognized, in connection with the organization's investment activities, from the lapse or termination of options to buy or sell securities (as defined in section 1236(c)) or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities. This paragraph shall not apply with respect to the cutting of timber which is considered, on the application of section 631, as a sale or exchange of such timber.

(6) The net operating loss deduction provided in section 172 shall be allowed, except that—

(A) the net operating loss for any taxable year, the amount of the net operating loss carryback or carryover to any taxable year, and the net operating loss deduction for any taxable year shall be determined under section 172 without taking into account any amount of income or deduction which is excluded under this part in computing the unrelated business taxable income; and

(B) the terms "preceding taxable year" and "preceding taxable years" as used in section 172 shall not include any taxable year for which the organization was not subject to the provisions of this part.

(7) There shall be excluded all income derived from research for (A) the United States, or any of its agencies or instrumentalities, or (B) any State or political subdivision thereof; and

there shall be excluded all deductions directly connected with such income.

(8) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(9) In the case of an organization operated primarily for purposes of carrying on fundamental research the results of which are freely available to the general public, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(10) In the case of any organization described in section 511(a), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 10 percent of the unrelated business taxable income computed without the benefit of this paragraph.

(11) In the case of any trust described in section 511(b), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), and for such purpose a distribution made by the trust to a beneficiary described in section 170 shall be considered as a gift or contribution. The deduction allowed by this paragraph shall be allowed with the limitations prescribed in section 170(b)(1)(A) and (B) determined with reference to the unrelated business taxable income computed without the benefit of this paragraph (in lieu of with reference to adjusted gross income).

(12) Except for purposes of computing the net operating loss under section 172 and paragraph (6), there shall be allowed a specific deduction of $1,000. In the case of a diocese, province of a religious order, or a convention or association of churches, there shall also be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—

(A) $1,000, or

(B) the gross income derived from any unrelated trade or business regularly carried on by such local unit.

(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

(A) IN GENERAL.—If an organization (in this paragraph referred to as the "controlling organization") receives or accrues (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the "controlled entity"), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as de-

rived from an unrelated trade or business under the preceding sentence.

(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

(i) NET UNRELATED INCOME.—The term "net unrelated income" means—

(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes as the controlling organization, or

(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

(ii) NET UNRELATED LOSS.—The term "net unrelated loss" means the net operating loss adjusted under rules similar to the rules of clause (i).

(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term "specified payment" means any interest, annuity, royalty, or rent.

(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

(i) CONTROL.—The term "control" means—

(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

(E) PARAGRAPH TO APPLY ONLY TO CERTAIN EXCESS PAYMENTS.—

(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a qualifying specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

(I) such excess determined without regard to any amendment or supplement to a return of tax, or

(II) such excess determined with regard to all such amendments and supplements.

(iii) QUALIFYING SPECIFIED PAYMENT.—The term "qualifying specified payment" means a specified payment which is made pursuant to—

(I) a binding written contract in effect on the date of the enactment of this subparagraph, or

(II) a contract which is a renewal, under substantially similar terms, of a contract described in subclause (I).

(F) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.

(15) Except as provided in paragraph (4), in the case of a trade or business—

(A) which consists of providing services under license issued by a Federal regulatory agency,

(B) which is carried on by a religious order or by an educational organization described in section 170(b)(1)(A)(ii) maintained by such religious order, and which was so carried on before May 27, 1959, and

(C) less than 10 percent of the net income of which for each taxable year is used for activities which are not related to the purpose constituting the basis for the religious order's exemption,

there shall be excluded all gross income derived from such trade or business and all deductions directly connected with the carrying on of such trade or business, so long as it is established to the satisfaction of the Secretary that the rates or other charges for such services are competitive with rates or other charges charged for similar services by persons not exempt from taxation.

(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

(i) such property was acquired by the organization from—

(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

(iii) such sale, exchange, or disposition occurs before the later of—

(I) the date which is 30 months after the date of the acquisition of such property, or

(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

(B) Property is described in this subparagraph if it is real property which—

(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage.

(17) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

(B) EXCEPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

(I) such organization,

(II) an affiliate of such organization which is exempt from tax under section 501(a), or

(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

(ii) AFFILIATE.—For purposes of this subparagraph—

(I) IN GENERAL.—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

(II) SPECIAL RULE.—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits

from such arrangement to be returned to the policyholders in their capacity as such.

(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.

(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.

(19) TREATMENT OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES.—

(A) IN GENERAL.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph—

(i) IN GENERAL.—The term "eligible taxpayer" means, with respect to a property, any organization exempt from tax under section 501(a) which—

(I) acquires from an unrelated person a qualifying brownfield property, and

(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

(ii) EXCEPTION.—Such term shall not include any organization which is—

(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

(III) the result of a reorganization of a business entity which was so potentially liable.

(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

(i) IN GENERAL.—The term "qualifying brownfield property" means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

(I) such property is transferred by the eligible taxpayer to an unrelated person, and

(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

(I) Remedial actions which comply with all applicable or relevant and appropriate requirements

(consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially com-

plete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

(i) IN GENERAL.—The term "eligible remediation expenditures" means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

(ii) EXCEPTIONS.—Such term shall not include—

(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (di-

rectly or indirectly) under a Federal, State, or local program provided in connection with the property, or

(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

(G) SPECIAL RULES FOR PARTNERSHIPS.—

(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

(ii) QUALIFYING PARTNERSHIP.—The term "qualifying partnership" means a partnership which—

(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if "qualified partnership" is substituted for "eligible taxpayer" each place it appears therein (except subparagraph (D)(iii)), and

(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of

the requirements of this subparagraph, including abuse through—

(I) the use of special allocations of gains or losses, or

(II) changes in ownership of partnership interests held by eligible taxpayers.

(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

(I) RECAPTURE.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and

such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

(J) RELATED PERSONS.—For purposes of this paragraph, a person shall be treated as related to another person if—

(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

(K) TERMINATION.—Except for purposes of determining the average eligible remediation expenditures for properties acquired during the election period under subparagraph (H), this paragraph shall not apply to any property acquired by the eligible taxpayer or qualifying partnership after December 31, 2009.

(c) SPECIAL RULES FOR PARTNERSHIPS.—

(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income.

(2) SPECIAL RULE WHERE PARTNERSHIP YEAR IS DIFFERENT FROM ORGANIZATION'S YEAR.—If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business taxable income under paragraph (1) shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization.

(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

(1) IN GENERAL.—If—

(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

(A) $100, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1994" for "calendar year 2016" in subparagraph (A)(ii) thereof.

(3) DUES.—For purposes of this subsection, the term "dues" means any payment (whether or not designated as dues) which is required to be made in order to be recognized by the organization as a member of the organization.

(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—

(1) IN GENERAL.—If an organization described in section 1361(c)(2)(A)(vi) or 1361(c)(6) holds stock in an S corporation—

(A) such interest shall be treated as an interest in an unrelated trade or business, and

(B) notwithstanding any other provision of this part—

(i) all items of income, loss, or deduction taken into account under section 1366(a), and

(ii) any gain or loss on the disposition of the stock in the S corporation,

shall be taken into account in computing the unrelated business taxable income of such organization.

(2) BASIS REDUCTION.—Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (as defined in section 1361(e)(1)(C)) shall be reduced by the amount of any dividends received by the organization with respect to the stock.

(3) EXCEPTION FOR ESOPS.—This subsection shall not apply to employer securities (within the meaning of section 409(*l*)) held by an employee stock ownership plan described in section 4975(e)(7).

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Subtitle F—Procedure and Administration

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CHAPTER 77—MISCELLANEOUS PROVISIONS

Sec. 7501. Liability for taxes withheld or collected.

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Sec. 7529. Application of earned income tax credit to possessions of the United States.

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SEC. 7529. APPLICATION OF EARNED INCOME TAX CREDIT TO POSSESSIONS OF THE UNITED STATES.

(a) PUERTO RICO.—

(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to Puerto Rico equal to—

(A) the specified matching amount for such calendar year, plus

(B) in the case of calendar years 2020 through 2024, the lesser of—

(i) the expenditures made by Puerto Rico during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to the earned income tax credit, or

(ii) $1,000,000.

(2) REQUIREMENT TO REFORM EARNED INCOME TAX CREDIT.—The Secretary shall not make any payments under paragraph (1) with respect to any calendar year unless Puerto Rico has in effect an earned income tax credit for taxable years beginning in or with such calendar year which (relative to the earned income tax credit which was in effect for taxable years beginning in or with calendar year 2019) increases the percentage of earned income which is allowed as a credit for each group of individuals with respect to which such percentage is separately stated or determined in a manner designed to substantially increase workforce participation.

(3) SPECIFIED MATCHING AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The term "specified matching amount" means, with respect to any calendar year, the lesser of—

(i) the excess (if any) of—

(I) the cost to Puerto Rico of the earned income tax credit for taxable years beginning in or with such calendar year, over

(II) the base amount for such calendar year, or

(ii) the product of 3, multiplied by the base amount for such calendar year.

(B) BASE AMOUNT.—

(i) BASE AMOUNT FOR 2020.—In the case of calendar year 2020, the term "base amount" means the greater of—

(I) the cost to Puerto Rico of the earned income tax credit for taxable years beginning in or with calendar year 2019 (rounded to the nearest multiple of $1,000,000), or

(II) $200,000,000.

(ii) INFLATION ADJUSTMENT.—In the case of any calendar year after 2020, the term "base amount" means the dollar amount determined under clause (i) increased by an amount equal to—

(I) such dollar amount, multiplied by—

(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting "calendar year 2019" for "calendar year 2016" in subparagraph (A)(ii) thereof.

Any amount determined under this clause shall be rounded to the nearest multiple of $1,000,000.

(4) RULES RELATED TO PAYMENTS AND REPORTS.—

(A) TIMING OF PAYMENTS.—The Secretary shall make payments under paragraph (1) for any calendar year—

(i) after receipt of the report described in subparagraph (B) for such calendar year, and

(ii) except as provided in clause (i), within a reasonable period of time before the due date for individual income tax returns (as determined under the laws of Puerto Rico) for taxable years which began on the first day of such calendar year.

(B) ANNUAL REPORTS.—With respect to calendar year 2020 and each calendar year thereafter, Puerto Rico shall provide to the Secretary a report which shall include—

(i) an estimate of the costs described in paragraphs (1)(B)(i) and (3)(A)(i)(I) with respect to such calendar year, and

(ii) a statement of such costs with respect to the preceding calendar year.

(C) ADJUSTMENTS.—

(i) IN GENERAL.—In the event that any estimate of an amount is more or less than the actual amount as later determined and any payment under paragraph (1) was determined on the basis of such estimate, proper payment shall be made by, or to, the Secretary (as the case may be) as soon as practicable after the determination that such estimate was inaccurate. Proper adjustment shall be made in the amount of any subsequent payments made under paragraph (1) to the extent that proper payment is not made under the preceding sentence before such subsequent payments.

(ii) ADDITIONAL REPORTS.—The Secretary may require such additional periodic reports of the information described in subparagraph (B) as the Secretary determines appropriate to facilitate timely adjustments under clause (i).

(D) DETERMINATION OF COST OF EARNED INCOME TAX CREDIT.—For purposes of this subsection, the cost to Puerto Rico of the earned income tax credit shall be determined by the Secretary on the basis of the laws of Puerto Rico and shall include reductions in revenues received by Puerto Rico by reason of such credit and refunds attributable to such credit, but shall not include any administrative costs with respect to such credit.

(E) PREVENTION OF MANIPULATION OF BASE AMOUNT.—No payments shall be made under paragraph (1) if the earned income tax credit as in effect in Puerto Rico for taxable years beginning in or with calendar year 2019 is modified after the date of the enactment of this subsection.

(b) POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—

(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to the Virgin

Islands, Guam, and the Commonwealth of the Northern Mariana Islands equal to—

(A) 75 percent of the cost to such possession of the earned income tax credit for taxable years beginning in or with such calendar year, plus

(B) in the case of calendar years 2020 through 2024, the lesser of—

(i) the expenditures made by such possession during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to such earned income tax credit, or

(ii) $50,000.

(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) of subsection (a)(4) shall apply for purposes of this subsection.

(c) AMERICAN SAMOA.—

(1) IN GENERAL.—With respect to calendar year 2020 and each calendar year thereafter, the Secretary shall, except as otherwise provided in this subsection, make payments to American Samoa equal to—

(A) the lesser of—

(i) 75 percent of the cost to American Samoa of the earned income tax credit for taxable years beginning in or with such calendar year, or

(ii) $12,000,000, plus

(B) in the case of calendar years 2020 through 2024, the lesser of—

(i) the expenditures made by American Samoa during such calendar year for education efforts with respect to individual taxpayers and tax return preparers relating to such earned income tax credit, or

(ii) $50,000.

(2) REQUIREMENT TO ENACT AND MAINTAIN AN EARNED INCOME TAX CREDIT.—The Secretary shall not make any payments under paragraph (1) with respect to any calendar year unless American Samoa has in effect an earned income tax credit for taxable years beginning in or with such calendar year which allows a refundable tax credit to individuals on the basis of the taxpayer's earned income which is designed to substantially increase workforce participation.

(3) INFLATION ADJUSTMENT.—In the case of any calendar year after 2020, the $12,000,000 amount in paragraph (1)(A)(ii) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by—

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting "calendar year 2019" for "calendar year 2016" in subparagraph (A)(ii) thereof.

Any increase determined under this clause shall be rounded to the nearest multiple of $100,000.

(4) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) of subsection (a)(4) shall apply for purposes of this subsection.

(d) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall

be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

TITLE 31, UNITED STATES CODE

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SUBTITLE II—THE BUDGET PROCESS

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CHAPTER 13—APPROPRIATIONS

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SUBCHAPTER II—TRUST FUNDS AND REFUNDS

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§ 1324. Refund of internal revenue collections

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

(1) claims for prior fiscal years; and

(2) accounts arising under—

(A) "Allowance or drawback (Internal Revenue)";

(B) "Redemption of stamps (Internal Revenue)";

(C) "Refunding legacy taxes, Act of March 30, 1928";

(D) "Repayment of taxes on distilled spirits destroyed by casualty"; and

(E) "Refunds and payments of processing and related taxes".

(b) Disbursements may be made from the appropriation made by this section only for—

(1) refunds to the limit of liability of an individual tax account; and

(2) refunds due from credit provisions of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) enacted before January 1, 1978, or enacted by the Taxpayer Relief Act of 1997, or from section *21 (by reason of subsection (g) thereof),* 25A, 35, 36, 36A, 36B, 168(k)(4)(F), 53(e), 54B(h), or 6431 of such Code, or due under section 3081(b)(2) of the Housing Assistance Tax Act of 2008.

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VII. DISSENTING VIEWS

While this legislation may be well intended, it misses the mark on several important fronts.

First, it is important to note that the Tax Cuts and Jobs Act (TCJA), which not a single member of the Majority supported, has been a powerful tool for economic mobility: wages are rising, unemployment is at historical lows, particularly for disadvantaged groups such as people with disabilities and members of minority populations, and there are more jobs available than there are unemployed people to fill them.

It is also significant that the Congressional Budget Office has projected that post-TCJA revenues will grow over the decade, but that spending will grow at a much faster pace, showing that spending is the source of growing deficits—particularly mandatory spending programs. That is why the Committee Majority's response in advancing this bill is so baffling. The bill vastly expands refundable tax credits, which increase Federal outlays. In fact, had the Majority not used budget gimmicks, the deficit increase resulting from the bill over the next decade would exceed $700 billion. And at a time of exploding mandatory spending, the bill actually creates a new mandatory spending program for the U.S. territories. And all this without paying for a dime of the new spending, even after the Chairman's opening statement complained about growing deficits. It is also ironic that in a bill that is supposed to be about economic mobility for working families, the bill aims to remove an important work incentive in the refundable portion of the child credit, also known as the Additional Child Tax Credit (ACTC). Under current law, taxpayers must have income earned from work in order to claim the ACTC, and the amount that is refundable increases as the taxpayer earns more. The bill would completely sever the tie to work by making the credit fully refundable regardless of whether any income is being earned from work. Thus, while the current structure encourages Americans to earn more from work, which leads to greater economic mobility, the bill may actually discourage families from working more and earning more, which would harm the economic mobility of the very low-income families the bill is supposedly intended to help.

Additionally, the bill expands the Earned Income Tax Credit, a program highly vulnerable to abuse and fraud, without any reforms to ensure the credit only goes to those it was intended to help. In fact, the bill would allow those with significant amounts of unearned income to access the credit, a group that seems less likely to truly need the credit.

The bill also expands the Child and Dependent Care Tax Credit and makes it refundable. By rejecting the Arrington amendment, which would have required Social Security numbers in order to access the credit, the Committee Majority signaled their intent for those unlawfully in the United States and unauthorized to work in the United States to receive a check from the Treasury of up to $6,000 via the expanded credit. We Committee Republicans believe that these credits should only go to those who have played by the rules and are legally authorized to live and work in the United States.

For all these reasons, we urge our House colleagues to reject this legislation.

KEVIN BRADY,
Republican Leader, Committee on Ways and Means.