

116TH CONGRESS
2D SESSION

S. 3883

To amend the Internal Revenue Code of 1986 to make the earned income tax credit available to residents of possessions of the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2020

Mr. MENENDEZ (for himself, Mr. SCHUMER, Mr. BLUMENTHAL, Ms. WARREN, Mr. SANDERS, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to make the earned income tax credit available to residents of possessions of the United States.

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

3 **SECTION 1. APPLICATION OF EARNED INCOME TAX CREDIT**
4 **IN POSSESSIONS OF UNITED STATES.**

5 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
6 enue Code of 1986 is amended by adding at the end the
7 following new section:

1 **“SEC. 7530. APPLICATION OF EARNED INCOME TAX CREDIT**
2 **TO POSSESSIONS OF THE UNITED STATES.**

3 “(a) PUERTO RICO.—

4 “(1) IN GENERAL.—With respect to calendar
5 year 2021 and each calendar year thereafter, the
6 Secretary shall, except as otherwise provided in this
7 subsection, make payments to Puerto Rico equal
8 to—

9 “(A) the specified matching amount for
10 such calendar year, plus

11 “(B) in the case of calendar years 2021
12 through 2025, the lesser of—

13 “(i) the expenditures made by Puerto
14 Rico during such calendar year for edu-
15 cation efforts with respect to individual
16 taxpayers and tax return preparers relat-
17 ing to the earned income tax credit, or

18 “(ii) \$1,000,000.

19 “(2) REQUIREMENT TO REFORM EARNED IN-
20 COME TAX CREDIT.—The Secretary shall not make
21 any payments under paragraph (1) with respect to
22 any calendar year unless Puerto Rico has in effect
23 an earned income tax credit for taxable years begin-
24 ning in or with such calendar year which (relative to
25 the earned income tax credit which was in effect for
26 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 tax-

able 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 2021, 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 2020’ 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—

1 “(i) after receipt of the report de-
2 scribed in subparagraph (B) for such cal-
3 endar year, and

4 “(ii) except as provided in clause (i),
5 within a reasonable period of time before
6 the due date for individual income tax re-
7 turns (as determined under the laws of
8 Puerto Rico) for taxable years which began
9 on the first day of such calendar year.

10 “(B) ANNUAL REPORTS.—With respect to
11 calendar year 2021 and each calendar year
12 thereafter, Puerto Rico shall provide to the Sec-
13 retary a report which shall include—

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

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

19 “(C) ADJUSTMENTS.—

20 “(i) IN GENERAL.—In the event that
21 any estimate of an amount is more or less
22 than the actual amount as later deter-
23 mined and any payment under paragraph
24 (1) was determined on the basis of such
25 estimate, proper payment shall be made

1 by, or to, the Secretary (as the case may
2 be) as soon as practicable after the deter-
3 mination that such estimate was inac-
4 curate. Proper adjustment shall be made in
5 the amount of any subsequent payments
6 made under paragraph (1) to the extent
7 that proper payment is not made under the
8 preceding sentence before such subsequent
9 payments.

10 “(ii) ADDITIONAL REPORTS.—The
11 Secretary may require such additional peri-
12 odic reports of the information described in
13 subparagraph (B) as the Secretary deter-
14 mines appropriate to facilitate timely ad-
15 justments under clause (i).

16 “(D) DETERMINATION OF COST OF
17 EARNED INCOME TAX CREDIT.—For purposes
18 of this subsection, the cost to Puerto Rico of
19 the earned income tax credit shall be deter-
20 mined by the Secretary on the basis of the laws
21 of Puerto Rico and shall include reductions in
22 revenues received by Puerto Rico by reason of
23 such credit and refunds attributable to such
24 credit, but shall not include any administrative
25 costs with respect to such credit.

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

8 “(b) POSSESSIONS WITH MIRROR CODE TAX SYS-
 9 TEMS.—

10 “(1) IN GENERAL.—With respect to calendar
 11 year 2020 and each calendar year thereafter, the
 12 Secretary shall, except as otherwise provided in this
 13 subsection, make payments to the Virgin Islands,
 14 Guam, and the Commonwealth of the Northern Mar-
 15 iana Islands equal to—

16 “(A) 75 percent of the cost to such posses-
 17 sion of the earned income tax credit for taxable
 18 years beginning in or with such calendar year,
 19 plus

20 “(B) in the case of calendar years 2020
 21 through 2024, the lesser of—

22 “(i) the expenditures made by such
 23 possession during such calendar year for
 24 education efforts with respect to individual

1 taxpayers and tax return preparers relat-
 2 ing to such earned income tax credit, or
 3 “(ii) \$50,000.

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

8 “(c) AMERICAN SAMOA.—

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

14 “(A) the lesser of—

15 “(i) 75 percent of the cost to Amer-
 16 ican Samoa of the earned income tax cred-
 17 it for taxable years beginning in or with
 18 such calendar year, or

19 “(ii) \$12,000,000, plus

20 “(B) in the case of calendar years 2020
 21 through 2024, the lesser of—

22 “(i) the expenditures made by Amer-
 23 ican Samoa during such calendar year for
 24 education efforts with respect to individual

1 taxpayers and tax return preparers relat-
2 ing to such earned income tax credit, or
3 “(ii) \$50,000.

4 “(2) REQUIREMENT TO ENACT AND MAINTAIN
5 AN EARNED INCOME TAX CREDIT.—The Secretary
6 shall not make any payments under paragraph (1)
7 with respect to any calendar year unless American
8 Samoa has in effect an earned income tax credit for
9 taxable years beginning in or with such calendar
10 year which allows a refundable tax credit to individ-
11 uals on the basis of the taxpayer’s earned income
12 which is designed to substantially increase workforce
13 participation.

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

18 “(A) such dollar amount, multiplied by—

19 “(B) the cost-of-living adjustment deter-
20 mined under section 1(f)(3) for such calendar
21 year, determined by substituting ‘calendar year
22 2019’ for ‘calendar year 2016’ in subparagraph
23 (A)(ii) thereof.

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

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

5 “(d) TREATMENT OF PAYMENTS.—For purposes of
 6 section 1324 of title 31, United States Code, the payments
 7 under this section shall be treated in the same manner
 8 as a refund due from a credit provision referred to in sub-
 9 section (b)(2) of such section.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for chapter 77 of the Internal Revenue Code of 1986 is
 12 amended by adding at the end the following new item:

“Sec. 7530. Application of earned income tax credit to possessions of the
 United States.”.

