

116TH CONGRESS  
1ST SESSION

# H. R. 5296

To amend the Internal Revenue Code of 1986 to provide an election to advance future child tax credits in the year of birth or adoption.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 4, 2019

Mr. ALLRED (for himself, Ms. STEFANIK, Mr. CUNNINGHAM, Ms. HERRERA BEUTLER, Mr. VAN DREW, Mr. GONZALEZ of Ohio, Mr. GOTTHEIMER, and Mr. STEIL) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an election to advance future child tax credits in the year of birth or adoption.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Advancing Support  
5 for Working Families Act”.

6 **SEC. 2. ELECTION TO ADVANCE CHILD TAX CREDIT.**

7 (a) IN GENERAL.—Section 24 of the Internal Rev-  
8 enue Code of 1986 is amended by adding at the end the  
9 following new subsection:

1       “(i) ELECTION FOR ADVANCED CREDIT IN YEAR OF  
2 BIRTH OR ADOPTION.—

3               “(1) IN GENERAL.—In the case of a taxpayer  
4 who makes an election under this subsection with re-  
5 spect to any applicable qualifying child—

6                       “(A) the amount of the credit allowed  
7 under subsection (a) with respect to such appli-  
8 cable qualifying child for the taxable year in  
9 which such applicable qualifying child is born or  
10 adopted shall be increased by the applicable  
11 amount, and

12                      “(B) the amount determined under sub-  
13 section (d) shall be increased by the amount of  
14 credit allowed to the taxpayer under this section  
15 by reason of subparagraph (A).

16 No election may be made under this subsection with  
17 respect to an applicable qualifying child unless the  
18 applicable qualifying child is alive at the time the  
19 election is made.

20               “(2) OFFSETTING REDUCTION.—

21                      “(A) IN GENERAL.—Except as otherwise  
22 provided in this paragraph, if the amount of the  
23 credit allowed to the taxpayer under subsection  
24 (a) is increased under paragraph (1), the tax  
25 imposed by this chapter shall be increased by

1 the applicable fraction of such increase for each  
2 taxable year in the offset period.

3 “(B) APPLICABLE FRACTION.—For pur-  
4 poses of this paragraph, the term ‘applicable  
5 fraction’ means a fraction—

6 “(i) the numerator of which is one,  
7 and

8 “(ii) the denominator of which is the  
9 total number of years in the offset period.

10 “(C) EXCEPTIONS.—

11 “(i) DEATH.—Subparagraph (A) shall  
12 not apply to any taxable year ending after  
13 the date of the death of—

14 “(I) the taxpayer, or

15 “(II) the applicable qualifying  
16 child with respect to the increase.

17 “(ii) DEFERMENT.—

18 “(I) IN GENERAL.—In the case  
19 of any taxpayer described in subclause  
20 (II) for the taxable year, no tax shall  
21 be imposed under subparagraph (A)  
22 for such taxable year and the number  
23 of taxable years in the offset period  
24 shall be increased (other than for pur-

1 poses of subparagraph (B)(ii)) by 1  
2 year.

3 “(II) TAXPAYER DESCRIBED.—A  
4 taxpayer is described in this subclause  
5 for any taxable year if the earned in-  
6 come amount of the taxpayer for such  
7 taxable year is more than 20 percent  
8 less than the earned income amount  
9 of the taxpayer for the preceding tax-  
10 able year and the taxpayer makes an  
11 election under this clause. The Sec-  
12 retary shall promulgate rules for cal-  
13 culating differences in the earned in-  
14 come amount of any taxpayer whose  
15 filing status is not the same as such  
16 taxpayer’s filing status in the pre-  
17 ceding taxable year.

18 “(III) ELECTION.—An election  
19 made under this clause shall apply to  
20 all applicable qualifying children of  
21 the taxpayer with respect to whom an  
22 increase is allowed under this sub-  
23 section and may not be made with re-  
24 spect to more than 3 taxable years in  
25 any offset period.

1           “(D) JOINT RETURNS.—In the case of an  
2 increase in credit allowed under paragraph (1)  
3 with respect to a joint return, half of such in-  
4 crease shall be treated as having been allowed  
5 to each individual filing such return for pur-  
6 poses of this paragraph.

7           “(E) RETURN REQUIREMENT.—If the tax  
8 imposed by this chapter for the taxable year is  
9 increased under this paragraph, the taxpayer  
10 shall, notwithstanding section 6012, be required  
11 to file a return with respect to the taxes im-  
12 posed under this subtitle.

13           “(F) OFFSET PERIOD.—

14           “(i) IN GENERAL.—Except as pro-  
15 vided in subparagraph (C)(ii), the term  
16 ‘offset period’ means, with respect to any  
17 increase under this paragraph, the 10 tax-  
18 able years beginning with the taxable year  
19 in which the applicable qualifying child is  
20 born or adopted.

21           “(ii) SPECIAL RULE.—In the case of a  
22 qualifying child who is adopted by the tax-  
23 payer and who is over the age of 5 on the  
24 date the adoption becomes final, the num-  
25 ber of taxable years in the offset period

1           shall be reduced by 1 year for each year by  
2           which the age attained by the qualifying  
3           child on the date the adoption becomes  
4           final is over the age of 5.

5           “(3) ELECTION TO CLAIM CREDIT ON PRIOR  
6           YEAR RETURN.—In the case of an applicable quali-  
7           fying child born or adopted after the date that is  
8           120 days after the date of the enactment of this  
9           subsection, a taxpayer may elect to treat such child  
10          as born or adopted on December 31 of the calendar  
11          year preceding such birth or adoption for purposes  
12          of this section.

13          “(4) DEFINITIONS.—For purposes of this sub-  
14          section—

15                 “(A) APPLICABLE QUALIFYING CHILD.—  
16                 The term ‘applicable qualifying child’ means  
17                 any qualifying child other than an eligible foster  
18                 child (as defined in section 152(f)(1)(C)).

19                 “(B) APPLICABLE AMOUNT.—

20                         “(i) IN GENERAL.—The applicable  
21                         amount is the amount, not to exceed the  
22                         maximum credit amount, elected by the  
23                         taxpayer.

24                         “(ii) MAXIMUM CREDIT AMOUNT.—

1                   “(I) IN GENERAL.—The max-  
2                   imum credit amount is \$5,000.

3                   “(II) SPECIAL RULE FOR CER-  
4                   TAIN ADOPTED CHILDREN.—In the  
5                   case of a qualifying child who is  
6                   adopted by the taxpayer and who is  
7                   over the age of 5 on the date the  
8                   adoption becomes final, the maximum  
9                   credit amount shall be reduced by  
10                  \$500 for each year by which the age  
11                  attained by the qualifying child on the  
12                  date the adoption becomes final is  
13                  over the age of 5.

14                  “(C) EARNED INCOME AMOUNT.—The  
15                  term ‘earned income amount’ means the  
16                  amount of earned income (within the meaning  
17                  of section 32) which is taken into account in  
18                  computing taxable income for the taxable year.  
19                  For purposes of the preceding sentence, any  
20                  amount excluded from gross income by reason  
21                  of section 112 shall be treated as earned income  
22                  which is taken into account in computing tax-  
23                  able income for the taxable year.

24                  “(5) SPECIAL RULE FOR CERTAIN LOW-INCOME  
25                  INDIVIDUALS.—

1           “(A) IN GENERAL.—In the case of a tax-  
2 payer described in subparagraph (B)—

3                   “(i) the applicable amount shall not  
4 exceed the lesser of—

5                           “(I) the maximum credit amount,

6                           or

7                           “(II) the applicable percentage of  
8 the earned income amount of the tax-  
9 payer for the taxable year, and

10                   “(ii) paragraph (2)(F) shall be ap-  
11 plied—

12                           “(I) by substituting ‘15 taxable  
13 years’ for ‘10 taxable years’ in clause  
14 (i) thereof, and

15                           “(II) by substituting ‘age of 0’  
16 for ‘age of 5’ each place it appears in  
17 clause (ii).

18           “(B) TAXPAYER DESCRIBED.—A taxpayer  
19 is described in this subparagraph if the increase  
20 in credits allowed under subpart C for the tax-  
21 able year by reason of subsection (d)(1) (deter-  
22 mined without regard to paragraph (1)(B)) is  
23 less than the amount that would be so deter-  
24 mined if subsection (d)(1) were applied without  
25 regard to subparagraph (B) thereof.



1           “(C) APPLICABLE PERCENTAGE.—For  
2 purposes of subparagraph (A)—

3           “(i) IN GENERAL.—The applicable  
4 percentage is 25 percent.

5           “(ii) SPECIAL RULE FOR CERTAIN  
6 ADOPTED CHILDREN.—In the case of a  
7 qualifying child who is adopted by the tax-  
8 payer and who is over the age of 5 on the  
9 date the adoption becomes final, the appli-  
10 cable percentage shall be reduced by 2.5  
11 percentage points for each year by which  
12 the age attained by the qualifying child on  
13 the date the adoption becomes final is over  
14 the age of 5.

15           “(6) SPECIAL RULE FOR YEAR OF BIRTH OR  
16 ADOPTION.—

17           “(A) IN GENERAL.—In the case of a quali-  
18 fying child who is born or adopted during the  
19 taxable year and with respect to whom an elec-  
20 tion is made under this subsection—

21           “(i) subsection (h)(7) shall not apply,  
22 and

23           “(ii) no credit shall be allowed under  
24 this section with respect to such qualifying

1 child unless the taxpayer includes one of  
2 the following:

3 “(I) In the case of a qualifying  
4 child who is adopted, the adoption  
5 taxpayer identification number of such  
6 child.

7 “(II) A social security number  
8 (within the meaning of subsection  
9 (h)(7)) of such child.

10 “(III) Such documentation as de-  
11 termined by the Secretary as appro-  
12 priate to establish that the qualifying  
13 child qualifies for a social security  
14 number (within the meaning of sub-  
15 section (h)(7)).

16 “(B) ACCELERATION.—

17 “(i) IN GENERAL.—In any case in  
18 which a taxpayer does not include a social  
19 security number (within the meaning of  
20 subsection (h)(7)) of a qualifying child  
21 with respect to whom an election is made  
22 under this subsection on the return of tax  
23 for the taxable year of birth or adoption—

24 “(I) the tax imposed by this  
25 chapter for the taxable year suc-

1           ceeding the taxable year in which the  
2           birth or adoption of the qualifying  
3           child occurs shall be increased by the  
4           excess of the amount of the increase  
5           in credit under paragraph (1) over the  
6           amounts of tax imposed by paragraph  
7           (2) for the preceding taxable year,  
8           and

9                     “(II) paragraph (2) shall not  
10           apply with respect to such increase for  
11           such taxable year or any subsequent  
12           taxable year.

13           For purposes of this title, any increase in  
14           tax under this subparagraph shall be treat-  
15           ed in the same manner as an increase in  
16           tax under paragraph (2).

17                     “(ii) EXCEPTION IF SOCIAL SECURITY  
18           NUMBER PROVIDED.—Clause (i) shall not  
19           apply if the taxpayer includes on the re-  
20           turn of tax for the taxable year succeeding  
21           the taxable year in which the birth or  
22           adoption of the qualifying child occurs the  
23           social security number (within the meaning  
24           of subsection (h)(7)) of such qualifying  
25           child.

1           “(7) ADMINISTRATION AND REGULATIONS.—

2           The Secretary shall take such steps as necessary, in-  
3           cluding through regulations and other guidance, in  
4           order to—

5                   “(A) enable and encourage taxpayers to  
6                   claim an increased credit under this subsection  
7                   as soon as practical after the birth or adoption  
8                   of a child, including through a process available  
9                   on the internet,

10                   “(B) expedite the processing of refunds in  
11                   connection with an election to claim the in-  
12                   creased credit on a prior year return under  
13                   paragraph (3),

14                   “(C) prevent fraud and abuse of the in-  
15                   creased credit, including, if necessary, through  
16                   the submission of additional third party infor-  
17                   mation related to the birth or adoption of a  
18                   child with respect to whom an increased credit  
19                   is claimed under this subsection, and

20                   “(D) provide annual information to elect-  
21                   ing taxpayers relating to outstanding liability  
22                   with respect to offsetting reductions under  
23                   paragraph (2).”.

24           (b) CREDITS NOT ALLOWED AGAINST OFFSET.—

25           Section 26(b)(2) of the Internal Revenue Code of 1986

1 is amended by striking “and” at the end of subparagraph  
2 (X), by striking the period at the end of subparagraph  
3 (Y) and inserting “, and”, and by adding at the end the  
4 following new subparagraph:

5                   “(Z) section 24(i)(2) (relating to offset of  
6                   advanced child tax credit in year of birth or  
7                   adoption).”.

8           (c) MATH ERROR AUTHORITY.—Section 6213(g)(2)  
9 of the Internal Revenue Code of 1986 is amended by strik-  
10 ing “and” at the end of subparagraph (P), by striking the  
11 period at the end of subparagraph (Q) and inserting “,  
12 and”, and by inserting after subparagraph (Q) the fol-  
13 lowing new subparagraph:

14                   “(R) in the case of a taxpayer to whom  
15                   section 24(i)(2) applies, an omission of correct  
16                   information relating to the amount of any in-  
17                   crease allowed under section 24(i), the applica-  
18                   ble fraction (as defined in such section) of such  
19                   increase, or the determination of whether the  
20                   taxpayer is described in section  
21                   24(i)(2)(C)(ii)(II).”.

22           (d) EFFECTIVE DATE.—

23                   (1) IN GENERAL.—Except as provided in para-  
24                   graph (2), the amendments made by this section

1 shall apply to taxable years beginning after Decem-  
2 ber 31, 2019.

3 (2) SPECIAL RULE FOR ELECTION TO CLAIM  
4 CREDIT ON PRIOR YEAR RETURN.—In the case of a  
5 taxpayer who makes an election under section  
6 24(i)(3) (as added by subsection (a)) with respect to  
7 a child born before January 1, 2021 (determined  
8 without regard to such section), the amendments  
9 made by this section shall apply to taxable years be-  
10 ginning after December 31, 2018.

11 (e) GAO STUDY.—

12 (1) IN GENERAL.—Not later than 2 years after  
13 the date of enactment of this Act, the Comptroller  
14 General of the United States shall submit to Con-  
15 gress a report on taxpayers making an election  
16 under section 24(i) of the Internal Revenue Code of  
17 1986, as added by subsection (a).

18 (2) MATTERS INCLUDED.—The report sub-  
19 mitted under paragraph (1) shall include the fol-  
20 lowing:

21 (A) The total number of taxpayers making  
22 such election for each month during 2019, and  
23 the average number of days occurring during  
24 the period beginning on the date on which such  
25 election is made and ending on the date on

1           which the Secretary of the Treasury (or the  
2           Secretary's designee) makes a determination  
3           that an increase under such section is allowed.

4           (B) The total number of taxpayers receiv-  
5           ing an increased credit under such section dur-  
6           ing 2019, and the average number of days oc-  
7           curring during the period beginning on the date  
8           on which such election is made and ending on  
9           the date on which any refund related to such  
10          increase is paid.

11          (C) An identification of any excessive delay  
12          in any of the periods described in subpara-  
13          graphs (A) and (B), and a description of the  
14          causes for such delay, with recommendations to  
15          address those excessive delays.

16          (D) The total number of taxpayers making  
17          such election who failed to submit a social secu-  
18          rity number of the qualifying child or such  
19          other information required pursuant to section  
20          24(i)(6)(A) of the Internal Revenue Code of  
21          1986 (as added by subsection (a)), and a de-  
22          scription of the barriers preventing taxpayers  
23          from meeting such requirements, with rec-  
24          ommendations on how to increase taxpayer

1 compliance and address delays caused by other  
2 State and Federal agencies.

3 (E) The total number of elections for  
4 deferment under section 24(i)(2)(C)(ii) of such  
5 Code (as added by subsection (a)) and the num-  
6 ber of such elections permitted.

7 (F) The total number of taxpayers not re-  
8 quired to make offsetting increases in tax under  
9 section 24(i)(2)(A) of such Code (as added by  
10 subsection (a)) due to the death of the applica-  
11 ble qualifying child or the taxpayer and the rev-  
12 enue impact of such exceptions.

13 (G) A list of regulatory and legislative op-  
14 tions, determined in consultation with family  
15 and medical leave experts, on the feasibility of  
16 expanding Federal tax benefits, including  
17 through interaction with programs administered  
18 by States, insurance companies, and employers,  
19 to support taxpayers who take different types of  
20 leave to which the Family and Medical Leave  
21 Act of 1993 (29 U.S.C. 2601 et seq.) applies.

○