

Innovating Inclusion: A New Wave of State Activism to Include Immigrants in Social Safety Nets

by Hannah Findling

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States across the country are tackling an equity issue in the tax code by breaking from federal eligibility standards for their state Earned Income Tax Credits (EITCs). Specifically, states are taking it upon themselves to end the exclusion of taxpayers who file their taxes with an Individual Taxpayer Identification Number (ITIN). [ITINs](#) are personal tax processing numbers issued by the Internal Revenue Service (IRS) to individuals who are not eligible for a Social Security number. They are primarily issued to undocumented immigrants, although they are also issued to certain lawfully present immigrants. Millions of people pay taxes with ITINs every year. Together ITIN-filers paid [\\$23.6 billion](#) in taxes in 2015. In less than a year, five states have successfully passed legislation to end the exclusion of these tax filers from their EITCs.

California and Colorado made history in 2020 when they became the first states to make this credit available to their undocumented residents. As [California Governor Gavin Newsom](#) stated, “These Californians are taxpayers and should be treated like taxpayers, eligible for the same credits, and pay the same tax rates.” Thus far in 2021, Maryland, New Mexico, and Washington state have successfully passed legislation to include ITIN-filers in their state credits. At this writing, Minnesota, Oregon, Massachusetts, New York, Illinois, and New Jersey have bills pending in their legislatures to do the same, and advocates report that similar bills will soon be introduced in additional states.

This new wave of state activism has developed amid an economic crisis that has pushed many families across the country to the brink of poverty and a public health crisis that has elevated the importance of essential

workers and of solidarity in fighting the spread of the disease. Almost three-quarters of undocumented workers are classified as “[essential](#),” and they make up a [disproportionate share](#) of workers whose [sectors have been hit the hardest](#) in the COVID-19 crisis. Yet they lack access to much of the social safety net accessible to citizens. Low-income and marginalized communities are typically disproportionately affected by crises, but the COVID-19 recession has caused an exceptional [divergence in well-being](#).

“Crisis exacerbates inequality, and in a time of massive hardship and a reckoning with systems that are too often discriminatory, it becomes even more critical for decision-makers to take actions that address structural inequity,” said [Colorado Senator Julie Gonzales](#), a co-sponsor of the EITC measure in that state. [California Assemblymember Lorena Gonzalez](#) said, “We know that immigrant workers have been disproportionately devastated by our current public health and economic crises. These tax-paying, essential workers continue to be shamefully and systematically left out of federal relief efforts.”

The impact of this policy change will be significant. As explained by the Deputy Director of New Mexico Voices for Children, [Amber Wallin](#), “These tax changes are a huge win for New Mexico families, especially working families with children. They will improve equity, reduce child poverty, and help essential workers meet their basic needs, all while giving a big boost to our economy because families spend these credits quickly and locally.” Wallin’s statements are backed up by ample research. The EITC has been proven to improve [educational outcomes](#) in young children, raise [college](#)

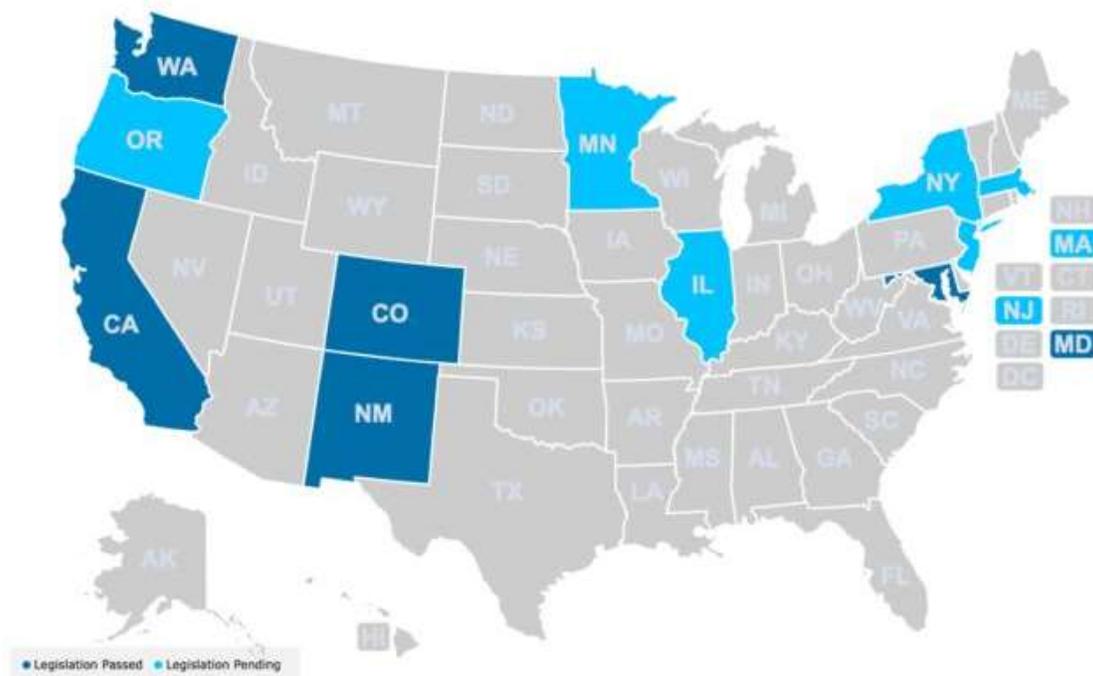
[enrollment rates](#), increase [workforce participation](#), increase recipients' [future earnings](#), improve [health outcomes](#) including [life expectancy](#), decrease the incidence of [low birth weight in newborns](#), and stimulate [local economies](#) by putting money in the pockets of consumers with immediate needs.

[Thirty states](#), the District of Columbia, Puerto Rico, Guam, and some cities have their own version of the federal EITC, most of which provide a percentage of the federal credit. The [EITC](#) is targeted for working, low-income families and is a critical element of the social safety net. It was created in 1975 at the federal level. Rhode Island was the [first state](#) to enact a state-level EITC in 1986. The credit amount is determined as a percentage of the [filers' earnings](#) and is heavily impacted by family size. The EITC has been long recognized by both [Democrats and Republicans](#) as a highly effective anti-poverty measure, specifically anti-child poverty.

Out of the six states with legislation pending to end the

exclusion of ITIN filers, the bills in Oregon and Massachusetts are perhaps the most notable. Bill [HB 2819](#) in Oregon would include ITIN filers in the state EITC, and would additionally compensate ITIN filers for the credit amount that they are being denied by the federal government. Advocates in Oregon have framed this latter provision as an [equity feature](#), arguing that the state must take responsibility for discrimination at the federal level. The bill pending in Massachusetts, [S.1852](#), would build on the EITC by establishing a [Guaranteed Minimum Income](#) for all residents in the state.

Together, the five states that have passed legislation thus far have opened eligibility to approximately 914,000 families for their state credits, according to [estimates by the Institute for Tax and Economic Policy](#). The status of state efforts to end the exclusion of ITIN filers in state EITCs is cataloged below, with updates current as of May 1, 2021.



States That Have Extended Their State EITCs to ITIN Filers

State	Date of enactment	Potential number of EITC eligible ITIN returns*	Other key provisions and/or relevant information
California	September 18, 2021	723,935	The legislature approved an expansion in June 2020 of the state EITC to ITIN filers with children under age 6 and then in September 2020 to all ITIN filers . California's EITC has the highest refundable credit of all states, set at 85 percent of the federal credit.
Colorado	July 11, 2021	47,190	This bill increased the state EITC from 10 percent to 15 percent of the federal credit beginning in 2022. The inclusion of ITIN filers in Colorado was part of a larger bill focusing on fairness in the state tax code.
Maryland	March 5, 2021	57,310	Governor Larry Hogan had opposed this measure when it was included in his Covid Relief Act. However, a separate bill later passed both houses with enough votes to overturn a veto , and it became law without the governor's signature.
New Mexico	April 6, 2021	16,440	This bill also extended eligibility for the state credit to filers as young as 18. The amount of the credit was raised from 17 percent of the federal credit to 20 percent, and is scheduled to be raised again in 2023 to 25 percent of the federal credit.
Washington	April 1, 2021	69,170	Washington's version of the EITC, the Working Families Tax Credit, was passed by the state legislature in 2008 but had never actually been funded. This bill funds the Working Families Tax Credit for the first time, and includes ITIN filers. It passed with overwhelming, bipartisan support by votes of 47-2 in the Senate and 93-3-2 in the House.

*Institute on Taxation and Economic Policy analysis, March 2020 using SPEC Returns Database for the ITIN market segment for tax year 2015 and ITEP's Microsimulation Tax Model.

States That Have Pending Legislation to Extend Their State EITCs to ITIN Filers

State	Potential number of EITC eligible ITIN returns*	Status as of May 1, 2021	Other key provisions and/or relevant information
Illinois	156,330	Pending in the Rules Committee	This bill includes clauses to expand the state EITC to filers aged 18 - 24 and to those over age 65 with no child dependents, as well as to caregivers providing unpaid care in the home.
Maine	65	Bill will be introduced soon	The bill sponsor is obtaining signatures and the bill will be introduced in this legislative session. After that, a hearing will be held in the Taxation Committee.
Massachusetts	18,515	Pending in the Joint Committee on Revenue	This bill builds on the state EITC to establish a Guaranteed Minimum Income. It would go farther than the EITC by including those who have no income. The bill would also raise the state EITC from 30 percent to 50 percent of the federal credit, and households with more than three children would be eligible for even higher percentages of the federal credit.
Minnesota	20,635	The extension of the EITC to ITIN filers is part of an omnibus tax bill that passed the House on April 19, 2021. However, the version that passed the Senate does not include ITIN filers. Members from each house will negotiate a final bill in a Conference Committee.	In the House's bill, ITIN filers are also included in the state's Homestead program, which provides a property tax reduction to those who own a house and occupy that same house as their primary residence, and additionally allows them to apply for a property tax refund. Minnesota's legislative session ends in mid-May. However, it is a budget year, so if the legislators cannot come to an agreement by the end of the session, the governor will likely call a Special Session.
New Jersey	77,560	Pending in the Budget and Appropriations Committees	This bill is a standalone extension of the state EITC to ITIN filers.

while other states face partisan divides. Some

State (cont.)	Potential number of EITC eligible ITIN returns* (cont.)	Status as of May 1, 2021 (cont.)	Other key provisions and/or relevant information (cont.)
New York	100,905	Pending in the Budget and Revenue Committee	This bill would raise the state credit amount from 25 percent of the federal credit to 30 percent in 2021 and 40 percent in 2022. It would lower the minimum age to receive the credit from 25 to 19. The bill would also allow advance payment of the credit, and adjust the income phase-out amount. Separately, New York recently created an Excluded Worker Fund that is aimed to fill in the gaps made by the federal exclusion of ITIN filers from unemployment insurance and the stimulus payments.
Oregon	30,945	Pending in the House Committee On Revenue	This bill also calls on the state to provide ITIN filers with the amount of the credit that they are currently denied on the federal level.

**Institute on Taxation and Economic Policy analysis, March 2020 using SPEC Returns Database for the ITIN market segment for tax year 2015 and ITEP’s Microsimulation Tax Model.*

campaigns have been focused on the [racial equity or](#)

More governors have been coming out in support of extending the state EITC to ITIN-filers. However, governor support is not always necessary. Maryland’s governor had opposed the inclusion of ITIN filers, but it passed the legislature with enough votes to overturn a veto. As stated by Maryland House of Delegates [Julie Palakovich Carr](#), “A Marylander is a Marylander no matter what type of tax ID number they have.”

[immigrant-rights](#) aspects of the issue, while others have tried to avoid these frames altogether.

Campaigns on behalf of extension have varied in rhetoric and tactics. The campaigns in Washington, California, and New Mexico, for example, were supported by large and diverse [coalitions](#) that worked together for years to fight for this policy change. In some states, provisions to extend the EITC to ITIN filers have simply been [one element within much larger tax bills](#), while in others expansion of EITC eligibility has been a standalone measure. In Washington state, the bill passed with overwhelming support from both parties,

Time will tell how many of these bills will pass in the 2021 legislative sessions. Yet it is clear that a growing number of states recognize the value of including all residents in recovery efforts and safety nets. Denying eligibility or impeding access to the EITC for millions of taxpaying noncitizens undermines the [efficacy of US anti-poverty initiatives](#), and states are taking the lead to enact change.

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The Center for Migration Studies of New York (CMS) is a think tank and an educational institute devoted to the study of international migration, to the promotion of understanding between immigrants and receiving communities, and to public policies that safeguard the dignity and rights of migrants, refugees, and newcomers.

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