

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1208

To amend the Internal Revenue Code of 1986 to allow an additional earned income tax credit for married individuals and to prevent fraud and abuse involving the earned income tax credit, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6 (legislative day, SEPTEMBER 5), 1995

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

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## A BILL

To amend the Internal Revenue Code of 1986 to allow an additional earned income tax credit for married individuals and to prevent fraud and abuse involving the earned income tax credit, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Family Fairness Act”.

6       (b) AMENDMENT OF 1986 CODE.—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
2 shall be considered to be made to a section or other provi-  
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. ADDITIONAL EARNED INCOME CREDIT FOR MAR-**  
5 **RIED INDIVIDUALS.**

6 (a) **IN GENERAL.**—Paragraph (1) of section 32(a)  
7 (relating to earned income credit) is amended to read as  
8 follows:

9 “(1) **IN GENERAL.**—There shall be allowed as a  
10 credit against the tax imposed by this subtitle for  
11 the taxable year an amount equal to the sum of—

12 “(A) in the case of an eligible individual,  
13 an amount equal to the credit percentage of so  
14 much of the taxpayer’s earned income for the  
15 taxable year as does not exceed the earned in-  
16 come amount, and

17 “(B) in the case of an eligible married in-  
18 dividual, the applicable percentage of \$1,000.”.

19 (b) **APPLICABLE PERCENTAGE.**—Section 32(b) (re-  
20 lating to percentages and amounts) is amended by adding  
21 at the end the following new paragraph:

22 “(3) **APPLICABLE PERCENTAGE.**—The applica-  
23 ble percentage for any taxable year is equal to 100  
24 percent reduced (but not below 0 percent) by 10 per-  
25 centage points for each \$1,000 (or fraction thereof)

1 by which the taxpayer's earned income for such tax-  
2 able year exceeds \$16,000.”.

3 (c) ELIGIBLE MARRIED INDIVIDUALS.—Section  
4 32(c) (relating to definitions and special rules) is amended  
5 by adding at the end the following new paragraph:

6 “(4) ELIGIBLE MARRIED INDIVIDUALS.—The  
7 term ‘eligible married individual’ means an eligible  
8 individual—

9 “(A) who is married (as defined in section  
10 7703) and who has lived together with the indi-  
11 vidual's spouse at all times during such mar-  
12 riage during the taxable year, and

13 “(B) has earned income for the taxable  
14 year of at least \$8,500.”.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 32(a)(2) is amended by striking  
17 “paragraph (1)” and inserting “paragraph (1)(A)”.

18 (2) Section 32(j) is amended to read as follows:

19 “(j) INFLATION ADJUSTMENTS.—

20 “(1) IN GENERAL.—In the case of any taxable  
21 year beginning after the applicable calendar year,  
22 each dollar amount referred to in paragraph (2)(B)  
23 shall be increased by an amount equal to—

24 “(A) such dollar amount, multiplied by

1           “(B) the cost-of-living adjustment deter-  
2           mined under section 1(f)(3), for the calendar  
3           year in which the taxable year begins, by sub-  
4           stituting for ‘calendar year 1992’ in subpara-  
5           graph (B) thereof—

6                   “(i) ‘calendar year 1993’ in the case  
7                   of the dollar amounts referred to in para-  
8                   graph (2)(B)(i), and

9                   “(ii) ‘calendar year 1995’ in the case  
10                  of the dollar amounts referred to in para-  
11                  graph (2)(B)(ii).

12           “(2) DEFINITIONS, ETC.—For purposes of  
13           paragraph (1)—

14                   “(A) APPLICABLE CALENDAR YEAR.—The  
15                   term ‘applicable calendar year’ means—

16                           “(i) 1994 in the case of the dollar  
17                           amounts referred to in paragraph  
18                           (2)(B)(i), and

19                           “(ii) 1996 in the case of the dollar  
20                           amounts referred to in paragraph  
21                           (2)(B)(ii).

22                   “(B) DOLLAR AMOUNTS.—The dollar  
23                   amounts referred to in this subparagraph are—

24                           “(i) each dollar amount contained in  
25                           subsection (b)(2)(A), and

1           “(ii) the \$16,000 amount contained in  
2           subsection (b)(3) and the dollar amount  
3           contained in subsection (c)(4)(B).

4           “(3) ROUNDING.—If any dollar amount after  
5           being increased under paragraph (1) is not a mul-  
6           tiple of \$10, such dollar amount shall be rounded to  
7           the nearest multiple of \$10 (or, if such dollar  
8           amount is a multiple of \$5, such dollar amount shall  
9           be increased to the next higher multiple of \$10).”.

10          (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 1995.

13 **SEC. 3. EARNED INCOME CREDIT DENIED TO INDIVIDUALS**  
14                           **NOT AUTHORIZED TO BE EMPLOYED IN THE**  
15                           **UNITED STATES.**

16          (a) IN GENERAL.—Section 32(c)(1) (relating to indi-  
17 viduals eligible to claim the earned income tax credit) is  
18 amended by adding at the end the following new subpara-  
19 graph:

20                           “(F) IDENTIFICATION NUMBER REQUIRE-  
21                           MENT.—The term ‘eligible individual’ does not  
22                           include any individual who does not include on  
23                           the return of tax for the taxable year—

24   “(i) such individual’s taxpayer identi-  
25   fication number, and

1                   “(ii) if the individual is married (with-  
2                   in the meaning of section 7703), the tax-  
3                   payer identification number of such indi-  
4                   vidual’s spouse.”.

5           (b) SPECIAL IDENTIFICATION NUMBER.—Section 32  
6 is amended by adding at the end the following new sub-  
7 section:

8           “(l) IDENTIFICATION NUMBERS.—Solely for pur-  
9 poses of paragraphs (1)(F) and (3)(D) of subsection (c),  
10 a taxpayer identification number means a social security  
11 number issued to an individual by the Social Security Ad-  
12 ministration (other than a social security number issued  
13 pursuant to clause (II) (or that portion of clause (III) that  
14 relates to clause (II)) of section 205(c)(2)(B)(i) of the So-  
15 cial Security Act).”.

16           (c) EXTENSION OF PROCEDURES APPLICABLE TO  
17 MATHEMATICAL OR CLERICAL ERRORS.—Section  
18 6213(g)(2) (relating to the definition of mathematical or  
19 clerical errors) is amended by striking “and” at the end  
20 of subparagraph (D), by striking the period at the end  
21 of subparagraph (E) and inserting “, and”, and by insert-  
22 ing after subparagraph (E) the following new subpara-  
23 graph:

24                   “(F) an omission of a correct taxpayer  
25                   identification number required under section 23

1 (relating to credit for families with younger  
2 children) or section 32 (relating to the earned  
3 income tax credit) to be included on a return.”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 1995.

7 **SEC. 4. REPEAL OF EARNED INCOME CREDIT FOR INDIVID-**  
8 **UALS WITHOUT CHILDREN.**

9 (a) IN GENERAL.—Subparagraph (A) of section  
10 32(c)(1) (defining eligible individual) is amended to read  
11 as follows:

12 “(A) IN GENERAL.—The term ‘eligible in-  
13 dividual’ means any individual who has a quali-  
14 fying child for the taxable year.”.

15 (b) CONFORMING AMENDMENTS.—Each of the tables  
16 contained in paragraphs (1) and (2) of section 32(b) are  
17 amended by striking the items relating to no qualifying  
18 children.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 1995.

22 **SEC. 5. RULES RELATING TO DENIAL OF EARNED INCOME**  
23 **CREDIT ON BASIS OF DISQUALIFIED INCOME.**

24 (a) DEFINITION OF DISQUALIFIED INCOME.—Para-  
25 graph (2) of section 32(i) (defining disqualified income)

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

5 “(D) capital gain net income,

6 “(E) the excess (if any) of—

7 “(i) the aggregate income from all  
8 passive activities for the taxable year (de-  
9 termined without regard to any amount de-  
10 scribed in a preceding subparagraph), over

11 “(ii) the aggregate losses from all pas-  
12 sive activities for the taxable year (as so  
13 determined), and

14 “(F) amounts includible in gross income  
15 under section 652 or 662 for the taxable year  
16 to the extent not taken into account under any  
17 preceding subparagraph.

18 For purposes of subparagraph (E), the term ‘passive  
19 activity’ has the meaning given such term by section  
20 469.”.

21 (b) DECREASE IN AMOUNT OF DISQUALIFIED IN-  
22 COME ALLOWED.—Paragraph (1) of section 32(i) (relat-  
23 ing to denial of credit) is amended by striking “\$2,350”  
24 and inserting “\$1,000”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1995.

4 **SEC. 6. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.**  
5

6 (a) IN GENERAL.—Subparagraph (B) of section  
7 32(a)(2) (relating to limitation) is amended by striking  
8 “adjusted gross income” and inserting “modified adjusted  
9 gross income”.

10 (b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special  
11 rules) is amended by adding at the end the following new  
12 paragraph:  
13

14 “(5) MODIFIED ADJUSTED GROSS INCOME.—  
15 The term ‘modified adjusted gross income’ means  
16 adjusted gross income, increased by the sum of—

17 “(A) social security benefits (as defined in  
18 section 86(d)) received to the extent not includ-  
19 ible in gross income,

20 “(B) amounts received by (or on behalf of)  
21 a spouse pursuant to a divorce or separation in-  
22 strument (as defined in section 71(b)(2)) which,  
23 under the terms of the instrument, are fixed as  
24 payable for the support of the children of the

1 payor spouse (as determined under section  
2 71(c)),

3 “(C) interest received or accrued during  
4 the taxable year which is exempt from tax im-  
5 posed by this chapter, and

6 “(D) any amount received by a participant  
7 or beneficiary under a qualified retirement plan  
8 (as defined in section 4974(c)) to the extent not  
9 includible in gross income.

10 Subparagraph (D) shall not apply to any amount re-  
11 ceived if the recipient transfers such amount in a  
12 rollover contribution described in section 402(c),  
13 403(a)(4), 403(b)(8), or 408(d)(3).”

14 (c) STUDY.—The Secretary of the Treasury shall  
15 conduct a study of the Federal tax treatment of child sup-  
16 port payments to determine whether or not changes in  
17 such treatment are necessary. The Secretary shall report  
18 to the Committee on Finance of the Senate and the Com-  
19 mittee on Ways and Means of the House of Representa-  
20 tives the results of the study, including recommendations  
21 (if any) which the Secretary determines appropriate to en-  
22 courage payment of child support liabilities by parents and  
23 to make both parents more responsible for a child’s eco-  
24 nomic well-being.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1995.

4 **SEC. 7. EARNED INCOME CREDIT NOT ALLOWED UNTIL RE-**  
5 **CEIPT OF EMPLOYER'S WITHHOLDING STATE-**  
6 **MENT.**

7 (a) IN GENERAL.—Section 6401(b) (relating to ex-  
8 cessive credits treated as overpayments) is amended by  
9 adding at the end the following new paragraph:

10 “(3) SPECIAL RULE FOR EARNED INCOME  
11 CREDIT.—For purposes of paragraph (1), the earned  
12 income credit allowed under section 32 shall not be  
13 treated as a credit allowable under subpart C of part  
14 IV of subchapter A of chapter 1 unless the Secretary  
15 is able to verify the amount of such credit by com-  
16 paring it with—

17 “(A) information returns filed with the  
18 Secretary under section 6051(d) by employees  
19 of the individual claiming the credit,

20 “(B) self-employment tax returns filed  
21 with the Secretary under section 6017, or

22 “(C) both.

23 The preceding sentence shall apply to any advanced  
24 payment of the earned income credit under section  
25 3507.”

1 (b) EFFECTIVE DATE; STUDY.—

2 (1) IN GENERAL.—The amendment made by  
3 this section shall apply to taxable years beginning  
4 after December 31, 1996.

5 (2) STUDY.—The Secretary of the Treasury  
6 shall conduct a study to determine the delays (if  
7 any) which would result in the processing of Federal  
8 income tax returns by reason of the amendment  
9 made by this section. Not later than 1 year after the  
10 date of the enactment of this Act, the Secretary  
11 shall report the results of the study to the Commit-  
12 tee on Finance of the Senate and the Committee on  
13 Ways and Means of the House of Representatives,  
14 including recommendations (if any) on ways to  
15 shorten any delay.

16 **SEC. 8. PREVENTION OF FRAUD IN ELECTRONIC RETURNS.**

17 (a) IN GENERAL.—The Secretary of the Treasury  
18 shall provide that any person applying to be an electronic  
19 return originator on or after the date of the enactment  
20 of this Act shall not be approved unless the applicant pro-  
21 vides fingerprints and credit information to the satisfac-  
22 tion of the Secretary.

23 (b) PAST APPLICANTS.—The Secretary of the Treas-  
24 ury shall apply the requirements described in subsection  
25 (a) to electronic return originators whose applications

- 1 were approved before the date of the enactment of this
- 2 Act without fingerprints and credit check information
- 3 being provided.

