

104TH CONGRESS  
1ST SESSION

# S. 899

To amend the Internal Revenue Code of 1986 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

JUNE 8 (legislative day, JUNE 5), 1995

Mr. ROTH (for himself, Mr. NICKLES, and Mr. PRESSLER) 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 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 “Earned Income Tax Credit Fraud Prevention 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  
9 to, or repeal of, a section or other provision, the reference

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

3 **SEC. 2. EARNED INCOME CREDIT DENIED TO INDIVIDUALS**

4 **NOT AUTHORIZED TO BE EMPLOYED IN THE**  
5 **UNITED STATES.**

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

10 “(F) IDENTIFICATION NUMBER REQUIRE-  
11 MENT.—The term ‘eligible individual’ does not  
12 include any individual who does not include on  
13 the return of tax for the taxable year—

14 “(i) such individual’s taxpayer identi-  
15 fication number, and

16 “(ii) if the individual is married (with-  
17 in the meaning of section 7703), the tax-  
18 payer identification number of such indi-  
19 vidual’s spouse.”.

20 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32  
21 is amended by adding at the end the following new sub-  
22 section:

23 “(l) IDENTIFICATION NUMBERS.—Solely for pur-  
24 poses of paragraphs (1)(F) and (3)(D) of subsection (c),  
25 a taxpayer identification number means a social security

1 number issued to an individual by the Social Security Ad-  
2 ministration (other than a social security number issued  
3 pursuant to clause (II) (or that portion of clause (III) that  
4 relates to clause (II)) of section 205(c)(2)(B)(i) of the So-  
5 cial Security Act).”.

6 (c) EXTENSION OF PROCEDURES APPLICABLE TO  
7 MATHEMATICAL OR CLERICAL ERRORS.—Section  
8 6213(g)(2) (relating to the definition of mathematical or  
9 clerical errors) is amended by striking “and’ at the end  
10 of subparagraph (D), by striking the period at the end  
11 of subparagraph (E) and inserting “, and”, and by insert-  
12 ing after subparagraph (E) the following new subpara-  
13 graph:

14 “(F) an omission of a correct taxpayer  
15 identification number required under section 23  
16 (relating to credit for families with younger  
17 children) or section 32 (relating to the earned  
18 income tax credit) to be included on a return.”.

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

1 **SEC. 3. REPEAL OF EARNED INCOME CREDIT FOR INDIVID-**  
2 **UALS WITHOUT CHILDREN.**

3 (a) IN GENERAL.—Subparagraph (A) of section  
4 32(c)(1) (defining eligible individual) is amended to read  
5 as follows:

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

9 (b) CONFORMING AMENDMENTS.—Each of the tables  
10 contained in paragraphs (1) and (2) of section 32(b) are  
11 amended by striking the items relating to no qualifying  
12 children.

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

16 **SEC. 4. DECREASE IN EARNED INCOME CREDIT AMOUNTS**  
17 **AND PHASEOUT RANGES.**

18 (a) DECREASE IN CREDIT RATE.—

19 (1) IN GENERAL.—Subsection (b) of section 32,  
20 as amended by section 3(b), is amended to read as  
21 follows:

22 “(b) PERCENTAGES.—

23 “(1) IN GENERAL.—The credit percentage and  
24 the phaseout percentage shall be determined as  
25 follows:

“In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .....	34 .....	15.98
2 or more qualifying children ..	36 .....	20.22

1        In the case of taxable years beginning in 1996, the  
2        credit percentage for eligible individuals with 2 or  
3        more qualifying children shall be 35 percent.

4                “(2) AMOUNTS.—The earned income amount  
5        and the phaseout amount shall be determined as  
6        follows:

“In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child .....	\$6,000 .....	\$11,000
2 or more qualifying children ..	\$8,425 .....	\$11,000.”.

7                (2) CONFORMING AMENDMENT.—Paragraph (1)  
8        of section 32(i) is amended by striking “subsection  
9        (b)(2)(A)” and inserting “subsection (b)(2)”.

10        (b) INFLATION ADJUSTMENTS TERMINATED.—Sec-  
11        tion 32(j) (relating to inflation adjustments) is amended  
12        by adding at the end the following new paragraph:

13                “(3) TERMINATION.—This subsection shall not  
14        apply to any taxable year beginning after December  
15        31, 1995.”.

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

1 **SEC. 5. RULES RELATING TO DENIAL OF EARNED INCOME**  
 2 **CREDIT ON BASIS OF DISQUALIFIED INCOME.**

3 (a) DEFINITION OF DISQUALIFIED INCOME.—Para-  
 4 graph (2) of section 32(i) (defining disqualified income)  
 5 is amended by striking “and” at the end of subparagraph  
 6 (B), by striking the period at the end of subparagraph  
 7 (C) and inserting “, and” and by adding at the end the  
 8 following new subparagraphs:

9 “(D) capital gain net income,

10 “(E) the excess (if any) of—

11 “(i) the aggregate income from all  
 12 passive activities for the taxable year (de-  
 13 termined without regard to any amount de-  
 14 scribed in a preceding subparagraph), over

15 “(ii) the aggregate losses from all pas-  
 16 sive activities for the taxable year (as so  
 17 determined), and

18 “(F) amounts includible in gross income  
 19 under section 652 or 662 for the taxable year  
 20 to the extent not taken into account under any  
 21 preceding subparagraph.

22 For purposes of subparagraph (E), the term ‘passive  
 23 activity’ has the meaning given such term by section  
 24 469.”.

25 (b) DECREASE IN AMOUNT OF DISQUALIFIED IN-  
 26 COME ALLOWED.—Paragraph (1) of section 32(i) (relat-

1 ing to denial of credit) is amended by striking “\$2,350”  
 2 and inserting “\$1,000”.

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

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

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

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

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

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

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

1 payable for the support of the children of the  
2 payor spouse (as determined under section  
3 71(c)),

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

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

11 Subparagraph (D) shall not apply to any amount re-  
12 ceived if the recipient transfers such amount in a  
13 rollover contribution described in section 402(c),  
14 403(a)(4), 403(b)(8), or 408(d)(3).”

15 (c) STUDY.—The Secretary of the Treasury shall  
16 conduct a study of the Federal tax treatment of child sup-  
17 port payments to determine whether or not changes in  
18 such treatment are necessary. The Secretary shall report  
19 to the Committee on Finance of the Senate and the Com-  
20 mittee on Ways and Means of the House of Representa-  
21 tives the results of the study, including recommendations  
22 (if any) which the Secretary determines appropriate to en-  
23 courage payment of child support liabilities by parents and  
24 to make both parents more responsible for a child’s eco-  
25 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.

