

109TH CONGRESS  
1ST SESSION

# S. 2139

To amend the Internal Revenue Code of 1986 to simplify the earned income tax credit eligibility requirements regarding filing status, presence of children, investment income, and work and immigrant status.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2005

Mr. ROCKEFELLER (for himself and Ms. SNOWE) 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 simplify the earned income tax credit eligibility requirements regarding filing status, presence of children, investment income, and work and immigrant status.

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 “Earned Income Tax  
5       Credit Simplification Act of 2005”.

6       **SEC. 2. MODIFICATION OF ABANDONED SPOUSE RULE.**

7       (a) IN GENERAL.—Section 32(c)(1) of the Internal  
8       Revenue Code of 1986 (relating to eligible individual) is

1 amended by adding at the end the following new para-  
 2 graph:

3 “(H) CERTAIN MARRIED INDIVIDUALS LIV-  
 4 ING APART.—For purposes of this section, an  
 5 individual who—

6 “(i) is married (within the meaning of  
 7 section 7703(a)) and files a separate re-  
 8 turn for the taxable year,

9 “(ii) lives with a qualifying child of  
 10 the individual for more than one-half of  
 11 such taxable year, and

12 “(iii) during the last 6 months of such  
 13 taxable year, does not have the same prin-  
 14 cipal place of abode as the individual’s  
 15 spouse, shall not be considered as mar-  
 16 ried.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) The last sentence of section 32(c)(1)(A) of  
 19 the Internal Revenue Code of 1986 is amended by  
 20 striking “section 7703” and inserting “section  
 21 7703(a)”.

22 (2) Section 32(d) of such Code is amended by  
 23 striking “In the case of an individual who is married  
 24 (within the meaning of section 7703)” and inserting  
 25 “In the case of an individual who is married (within

1 the meaning of section 7703(a)) and is not described  
 2 in subsection (c)(1)(H)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to taxable years beginning after  
 5 December 31, 2005.

6 **SEC. 3. SIMPLIFICATION OF RULES REGARDING PRESENCE**  
 7 **OF QUALIFYING CHILD.**

8 (a) TAXPAYER ELIGIBLE FOR CREDIT FOR WORKER  
 9 WITHOUT QUALIFYING CHILD IF QUALIFYING CHILD  
 10 CLAIMED BY ANOTHER MEMBER OF FAMILY.—Section  
 11 32(c)(1) of the Internal Revenue Code of 1986 (relating  
 12 to eligible individual), as amended by this Act, is amended  
 13 by adding at the end the following new paragraph:

14 “(I) TAXPAYER ELIGIBLE FOR CREDIT FOR  
 15 WORKER WITHOUT QUALIFYING CHILD IF  
 16 QUALIFYING CHILD CLAIMED BY ANOTHER  
 17 MEMBER OF FAMILY.—

18 “(i) GENERAL RULE.—Except as pro-  
 19 vided in clause (ii), in the case of 2 or  
 20 more eligible individuals who may claim for  
 21 such taxable year the same individual as a  
 22 qualifying child, if such individual is  
 23 claimed as a qualifying child by such an el-  
 24 igible individual, then any other such eligi-  
 25 ble individual who does not make such a

claim of such child or of any other qualifying child may be considered an eligible individual without a qualifying child for purposes of the credit allowed under this section for such taxable year.

“(ii) EXCEPTION IF QUALIFYING CHILD CLAIMED BY PARENT.—If an individual is claimed as a qualifying child for any taxable year by an eligible individual who is a parent of such child, then no other parent of such child who does not make such a claim of such child or of any other qualifying child may be considered an eligible individual without a qualifying child for purposes of the credit allowed under this section for such taxable year.”.

(b) TAXPAYER ELIGIBLE FOR CREDIT FOR WORKER WITHOUT QUALIFYING CHILD IF QUALIFYING CHILDREN DO NOT HAVE VALID SOCIAL SECURITY NUMBER.—Subparagraph (G) of section 32(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(G) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—In the case of any eligible individual who has one or more qualifying children, if no qualifying child

1 of such individual is taken into account under  
 2 subsection (b) by reason of paragraph (3)(D),  
 3 for purposes of the credit allowed under this  
 4 section, such individual may be considered an  
 5 eligible individual without a qualifying child.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to taxable years beginning after  
 8 December 31, 2005.

9 **SEC. 4. ELIMINATION OF DISQUALIFIED INVESTMENT IN-**  
 10 **COME TEST.**

11 (a) IN GENERAL.—Section 32 of the Internal Rev-  
 12 enue Code of 1986 is amended by striking subsection (i).

13 (b) EFFECTIVE DATE.—The amendment made by  
 14 this section shall apply to taxable years beginning after  
 15 December 31, 2005.

16 **SEC. 5. DEFINITION OF VALID TAXPAYER IDENTIFICATION**  
 17 **NUMBER FOR EARNED INCOME CREDIT.**

18 (a) IN GENERAL.—Section 32(m) of the Internal  
 19 Revenue Code of 1986 is amended to read as follows:

20 “(m) IDENTIFICATION NUMBERS.—

21 “(1) IN GENERAL.—Solely for purposes of sub-  
 22 sections (c)(1)(E) and (c)(3)(D), a taxpayer identi-  
 23 fication number means a social security number as-  
 24 signed by the Social Security Administration.

25 “(2) LIMITATION.—

1           “(A) IN GENERAL.—To be eligible for a  
 2           credit under this section, the return of tax for  
 3           the taxable year must clearly indicate that any  
 4           alien with earned income possesses a social se-  
 5           curity number assigned by the Social Security  
 6           Administration which is authorized for employ-  
 7           ment purposes.

8           “(B) JOINT RETURNS.—When a married  
 9           couple files a joint return, and one spouse’s so-  
 10          cial security number is authorized for employ-  
 11          ment and the other spouse’s social security  
 12          number is not authorized for employment pur-  
 13          poses, a credit under this section is only avail-  
 14          able if the return of tax for the taxable year  
 15          clearly indicates that the earned income is at-  
 16          tributable only to the spouse whose social secu-  
 17          rity number is authorized for employment pur-  
 18          poses.”.

19          (b) EFFECTIVE DATE.—The amendment made by  
 20          subsection (a) shall apply to taxable years beginning after  
 21          December 31, 2005.

22          (c) NOTICE REQUIREMENTS.—

23               (1) IN GENERAL.—The Secretary of the Treas-  
 24          ury shall make reasonable efforts to provide at least  
 25          3 months advance notification to households likely to

1 be affected by the amendment made by subsection  
2 (a) so that individuals eligible to obtain an employ-  
3 ment-authorized social security number may under-  
4 stand what action is needed to preserve their eligi-  
5 bility for the earned income credit under section 32  
6 of the Internal Revenue Code of 1986.

7 (2) RESPONSE IF CONDITIONS NOT SATIS-  
8 FIED.—If a taxpayer appears to be otherwise eligible  
9 for the earned income credit under section 32 of  
10 such Code but has not satisfied the conditions of  
11 subsection (m)(2) of such section, the Secretary of  
12 the Treasury shall send a mathematical or clerical  
13 error notice under section 6213(b)(1) of such Code  
14 informing the taxpayer of the actions needed to es-  
15 tablish eligibility for such credit and of the option of  
16 filing an amended tax return if eligibility for such  
17 credit cannot be established within the response pe-  
18 riod for such mathematical or clerical error notice.

○