

115TH CONGRESS  
2D SESSION

# H. R. 5153

To amend the Internal Revenue Code of 1986 to allow a credit against tax for charitable donations to nonprofit organizations providing workforce training and education scholarships to qualified elementary and secondary students.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2018

Mr. SMUCKER (for himself and Mr. MOONEY of West Virginia) 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 allow a credit against tax for charitable donations to nonprofit organizations providing workforce training and education scholarships to qualified elementary and secondary students.

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 “USA Workforce Tax  
5 Credit Act”.

1 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO WORKFORCE**  
2 **DEVELOPMENT AND APPRENTICESHIP**  
3 **TRAINING ORGANIZATIONS.**

4 (a) CREDIT FOR INDIVIDUALS.—

5 (1) IN GENERAL.—Subpart A of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code  
7 of 1986 is amended by inserting after section 25D  
8 the following new section:

9 **“SEC. 25E. QUALIFIED WORKFORCE DEVELOPMENT AND**  
10 **APPRENTICESHIP TRAINING PROGRAMS.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
12 dividual, there shall be allowed as a credit against the tax  
13 imposed by this chapter for the taxable year an amount  
14 equal to the amount of qualified contributions made by  
15 the taxpayer during the year.

16 “(b) DOLLAR LIMITATIONS.—

17 “(1) INCOME LIMITATION.—The amount al-  
18 lowed as a credit under subsection (a) with respect  
19 to any taxpayer shall not exceed 25 percent of the  
20 tax liability of the taxpayer with a maximum value  
21 of \$250,000.

22 “(2) REDUCTION BASED ON STATE CREDIT.—

23 The amount allowed as a credit under subsection (a)  
24 for a taxable year shall be reduced by the amount  
25 allowed as a credit on any State tax return of the

1 individual for qualified contributions made by the  
2 taxpayer during the taxable year.

3 “(c) QUALIFIED CONTRIBUTIONS; OTHER DEFINI-  
4 TIONS.—For purposes of this section—

5 “(1) QUALIFIED CONTRIBUTION.—The term  
6 ‘qualified contribution’ means a charitable contribu-  
7 tion (as defined by section 170(c)) to a workforce  
8 development or apprenticeship training organization.

9 “(2) WORKFORCE DEVELOPMENT OR APPREN-  
10 TICESHIP TRAINING ORGANIZATION.—The term  
11 ‘workforce development or apprenticeship training  
12 organization’ means any organization—

13 “(A) which—

14 “(i) is described in section 501(c)(3)  
15 and exempt from tax under section 501(a),  
16 and

17 “(ii) is not a private foundation,

18 “(B) whose exclusive purpose is provide  
19 workforce development and apprenticeship  
20 training to eligible participants, including—

21 “(i) community colleges,

22 “(ii) workforce training programs, as  
23 defined by State workforce agencies,

24 “(iii) organizations that provide career  
25 and technical education,

1           “(iv) organizations that provide train-  
2           ing or apprenticeships operated by a collec-  
3           tive bargaining organization,

4           “(v) community organizations that  
5           provide full certified training, and

6           “(vi) private schools that confer diplo-  
7           mas, degrees, or certify completion of cer-  
8           tain grades,

9           “(C) that is in compliance with all applica-  
10          ble State laws, including laws relating to unlaw-  
11          ful discrimination, health and safety require-  
12          ments, and criminal background checks of em-  
13          ployees, and

14          “(D) which meets the requirements of sub-  
15          section (d).

16          “(3) ELIGIBLE PARTICIPANTS.—The term ‘eli-  
17          gible participant’ means an individual who is en-  
18          rolled in workforce development and apprenticeship  
19          training organization, as described in paragraph  
20          (2)(B).

21          “(d) DENIAL OF DOUBLE BENEFIT.—No deduction  
22          shall be allowed under any provision of this chapter for  
23          any expense for which a credit is allowed under this sec-  
24          tion.

1       “(e) ELECTION.—This section shall apply to a tax-  
2 payer for a taxable year only if such taxpayer elects to  
3 have this section apply for such taxable year.”.

4           (2) CLERICAL AMENDMENT.—The table of sec-  
5 tions for subpart A of part IV of subchapter A of  
6 chapter 1 of such Code is amended by inserting aft-  
7 the item relating to section 25D the following new  
8 item:

“Sec. 25E. Qualified Workforce Development and Apprenticeship Training Pro-  
grams.”.

9       (b) CREDIT FOR CORPORATIONS.—

10           (1) IN GENERAL.—Subpart D of part IV of  
11 subchapter A of chapter 1 of such Code is amended  
12 by adding at the end of the following new section:

13 **“SEC. 45T. CONTRIBUTIONS TO WORKFORCE DEVELOP-**  
14 **MENT OR APPRENTICESHIP TRAINING ORGA-**  
15 **NIZATIONS.**

16       “(a) GENERAL RULE.—For purposes of section 38,  
17 in the case of a corporation, the workforce development  
18 and apprenticeship training credit determined under this  
19 section for the taxable year is the aggregate amount of  
20 qualified contributions for the taxable year.

21       “(b) LIMITATION.—

22           “(1) INCOME LIMITATION.—The amount of the  
23 credit determined under this section for any taxable  
24 year shall not exceed the lesser of—

1           “(A) 25 percent of the tax liability of the  
2 taxpayer for the taxable year, and

3           “(B) \$250,000.

4           “(2) REDUCTION BASED ON STATE CREDIT.—

5           The amount allowed as a credit under subsection (a)  
6 for a taxable year shall be reduced by the amount  
7 allowed as a credit on any State tax return of the  
8 individual for qualified contributions made by the  
9 taxpayer during the taxable year.

10           “(3) QUALIFIED CONTRIBUTIONS.—For pur-

11 poses of this section, the term ‘qualified contribu-  
12 tion’ has the meaning given such term under section  
13 25E.

14           “(c) DENIAL OF DOUBLE BENEFIT.—No deduction

15 shall be allowed under any provision of this chapter for  
16 any expense for which a credit is allowed under this sec-  
17 tion.

18           “(d) ELECTION.—This section shall apply to a tax-

19 payer for a taxable year only if such taxpayer elects to  
20 have this section apply for such taxable year.”.

21           (2) CONFORMING AMENDMENTS.—Section

22 38(b) of such Code is amended by striking “plus” at  
23 the end of paragraph (36), by striking the period  
24 and inserting “, plus” at the end of paragraph (37),

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

3 “(38) the workforce development or apprentice-  
4 ship training credit determined under section  
5 45T(a).”.

6 (3) CLERICAL AMENDMENT.—The table of sec-  
7 tions for subpart D of part IV of subchapter A of  
8 chapter 1 of such Code is amended by adding at the  
9 end the following new item:

“Sec. 45T. Contributions to workforce development or apprenticeship training organizations.”.

10 **SEC. 3. TAX CREDIT FOR CONTRIBUTIONS TO SCHOLAR-**  
11 **SHIP GRANTING ORGANIZATIONS.**

12 (a) CREDIT FOR INDIVIDUALS.—

13 (1) IN GENERAL.—Subpart A of part IV of sub-  
14 chapter A of chapter 1 of the Internal Revenue Code  
15 of 1986, as amended by this Act, is amended by in-  
16 serting after section 25E the following new section:

17 **“SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDU-**  
18 **CATION SCHOLARSHIPS.**

19 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
20 dividual, there shall be allowed as a credit against the tax  
21 imposed by this chapter for the taxable year an amount  
22 equal to the amount of qualified contributions made by  
23 the taxpayer during the taxable year.

24 “(b) DOLLAR LIMITATIONS.—

1           “(1) INCOME LIMITATION.—The amount al-  
2           lowed as a credit under subsection (a) with respect  
3           to any taxpayer shall not exceed the lesser of—

4                   “(A) 25 percent of the tax liability of the  
5                   taxpayer, and

6                   “(B) \$500,000.

7           “(2) REDUCTION BASED ON STATE CREDIT.—

8           The amount allowed as a credit under subsection (a)  
9           for a taxable year shall be reduced by the amount  
10          allowed as a credit on any State tax return of the  
11          individual for qualified contributions made by the  
12          taxpayer during the taxable year.

13          “(c) QUALIFIED CONTRIBUTIONS; OTHER DEFINI-  
14          TIONS.—For purposes of this section—

15                   “(1) QUALIFIED CONTRIBUTION.—The term  
16                   ‘qualified contribution’ means a charitable contribu-  
17                   tion (as defined by section 170(c)) to a scholarship  
18                   granting organization.

19                   “(2) SCHOLARSHIP GRANTING ORGANIZA-  
20                   TION.—The term ‘scholarship granting organization’  
21                   means any organization—

22                           “(A) which—

23                                   “(i) is described in section 501(c)(3)  
24                                   and exempt from tax under section 501(a),  
25                                   and



1                   “(ii) is not a private foundation,  
2                   “(B) whose exclusive purpose is to provide  
3                   scholarships for tuition for qualified elementary  
4                   and secondary education expenses of eligible  
5                   students, and

6                   “(C) which meets the requirements of sub-  
7                   section (d).

8                   “(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING  
9 ORGANIZATIONS.—

10                   “(1) IN GENERAL.—An organization meets the  
11 requirements of this subsection if—

12                   “(A) such organization provides scholar-  
13 ships to—

14                   “(i) more than 1 student, and

15                   “(ii) different students attending more  
16 than 1 school,

17                   “(B) such organization does not provide  
18 scholarships for any expenses other than quali-  
19 fied elementary and secondary education ex-  
20 penses,

21                   “(C) such organization provides a scholar-  
22 ship to eligible students with a priority for stu-  
23 dents awarded a scholarship the previous school  
24 year,

1           “(D) such organization does not earmark  
2 or set aside contributions for scholarships on  
3 behalf of any particular student,

4           “(E) such organization takes appropriate  
5 steps to verify the annual household income and  
6 family size of eligible students to whom it  
7 awards scholarships, and limits them to a mem-  
8 ber of a household with a total annual house-  
9 hold income, which does not exceed 200 percent  
10 of the median gross income, as determined by  
11 the Secretary of Housing and Urban Develop-  
12 ment, for the purposes of the low-income hous-  
13 ing credit under section 42,

14           “(F) such organization obtains from an  
15 independent certified public accountant annual  
16 financial and compliance audits and submits  
17 such audits to the Secretary,

18           “(G) no officer or board member of such  
19 organization has been convicted of a felony, and

20           “(H) such organization requires any eligi-  
21 ble student who receives a scholarship to permit  
22 such organization to share assessment informa-  
23 tion and other data regarding the student for  
24 the purpose of providing reports described in  
25 subsection (e), and such other information as

1 necessary for the purposes of reporting on the  
2 academic achievement of eligible students re-  
3 ceiving a scholarship from such organization.

4 “(2) INDEPENDENT CERTIFIED PUBLIC AC-  
5 COUNTANT.—For purposes of paragraph (1)(F), the  
6 term ‘independent certified public accountant’  
7 means, with respect to an organization, a certified  
8 public accountant who is not a related person (with-  
9 in the meaning of section 465(b)(3)(C)) with respect  
10 to such organization or any employee of such organi-  
11 zation.

12 “(e) ELIGIBLE SCHOOL REPORTING REQUIRE-  
13 MENT.—

14 “(1) IN GENERAL.—The reports described in  
15 this subsection include—

16 “(A) a report to the parents on the stu-  
17 dent’s academic achievement, and

18 “(B) a report to each qualified scholarship  
19 granting organization that provides scholarships  
20 to students at the school, that includes the test  
21 results, in the aggregate and disaggregated by  
22 race or ethnicity and grade level, of the stu-  
23 dents receiving such scholarships who are in  
24 grades 3 through 12 on a grade-appropriate na-  
25 tionally norm-referenced standardized test.

1           “(2) NO PERSONALLY IDENTIFIABLE INFORMA-  
2           TION.—In preparing and submitting the report de-  
3           scribed in paragraph (1)(B), a school shall not in-  
4           clude any personally identifiable information regard-  
5           ing a student.

6           “(f) DENIAL OF DOUBLE BENEFIT.—No deduction  
7           shall be allowed under any provision of this chapter for  
8           any expense for which a credit is allowed under this sec-  
9           tion.

10          “(g) ELECTION.—This section shall apply to a tax-  
11          payer for a taxable year only if such taxpayer elects to  
12          have this section apply for such taxable year.”.

13                 (2) CLERICAL AMENDMENT.—The table of sec-  
14                 tions for subpart A of part IV of subchapter A of  
15                 chapter 1 of such Code, as amended by this Act, is  
16                 amended by inserting after the item relating to sec-  
17                 tion 25E the following new item:

“Sec. 25F. Qualified elementary and secondary education scholarships.”.

18                 (b) CREDIT FOR CORPORATIONS.—

19                         (1) IN GENERAL.—Subpart D of part IV of  
20                         subchapter A of chapter 1 of such Code, as amended  
21                         by this Act, is amended by adding after section 45T  
22                         the following:

1 **“SEC. 45U. CONTRIBUTIONS TO SCHOLARSHIP GRANTING**  
2 **ORGANIZATIONS.**

3 “(a) GENERAL RULE.—For purposes of section 38,  
4 in the case of a corporation, the education scholarship  
5 credit determined under this section for the taxable year  
6 is the aggregate amount of qualified contributions for the  
7 taxable year.

8 “(b) LIMITATION.—

9 “(1) INCOME LIMITATION.—The amount of the  
10 credit determined under this section for any taxable  
11 year shall not exceed the lesser of—

12 “(A) 25 percent of the tax liability of the  
13 taxpayer for the taxable year, and

14 “(B) \$250,000.

15 “(2) REDUCTION BASED ON STATE CREDIT.—  
16 The amount allowed as a credit under subsection (a)  
17 for a taxable year shall be reduced by the amount  
18 allowed as a credit on any State tax return of the  
19 individual for qualified contributions made by the  
20 taxpayer during the taxable year.

21 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of  
22 this section, the term ‘qualified contribution’ has the  
23 meaning given such term under section 25F.

24 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction  
25 shall be allowed under any provision of this chapter for

1 any expense for which a credit is allowed under this sec-  
2 tion.

3 “(e) ELECTION.—This section shall apply to a tax-  
4 payer for a taxable year only if such taxpayer elects to  
5 have this section apply for such taxable year.”.

6 (2) CONFORMING AMENDMENTS.—Section  
7 38(b) of such Code, as amended by this Act, is  
8 amended by striking “plus” at the end of paragraph  
9 (37), by striking the period and inserting “, plus”  
10 at the end of paragraph (38), and by adding at the  
11 end of the following new paragraph:

12 “(39) the education scholarship credit deter-  
13 mined under section 45U(a).”.

14 (3) CLERICAL AMENDMENT.—The table of sec-  
15 tions for subpart D of part IV of subchapter A of  
16 chapter 1 of such Code, as amended by this Act, is  
17 amended by adding at the end the following new  
18 item:

“Sec. 45U. Contributions to scholarship granting organizations.”.

19 (c) EXCISE TAX ON FAILURE OF SCHOLARSHIP  
20 GRANTING ORGANIZATIONS TO MAKE DISTRIBUTIONS.—

21 (1) IN GENERAL.—Chapter 42 of such Code is  
22 amended by adding at the end the following new  
23 subchapter:

1 **“Subchapter I—Organizations Providing**  
2 **Workforce Development, Apprenticeship**  
3 **Training, or Scholarships**

“Sec. 4969. Tax on failure to distribute receipts.

4 **“SEC. 4969. TAX ON FAILURE TO DISTRIBUTE RECEIPTS.**

5 “(a) TAX IMPOSED.—There is hereby imposed a tax  
6 on the failure of a workforce development or apprentice-  
7 ship training organization (as defined in section 25E) or  
8 a scholarship granting organization (as defined in section  
9 25F) to make distributions in any taxable year in an  
10 amount equal to or in excess of the required distribution  
11 amount before the distribution deadline relating to a tax-  
12 able year.

13 “(b) AMOUNT OF TAX.—The tax imposed by sub-  
14 section (a) with respect to a taxable year shall be equal  
15 to 15 percent of the greater of—

16 “(1) the required distribution amount with re-  
17 spect to the taxable year, or

18 “(2) the amount of receipts of the qualified  
19 scholarship granting organization for each taxable  
20 year which are distributed before the distribution  
21 deadline with respect to such receipts.

22 “(c) DEFINITIONS.—For purposes of this section—

23 “(1) REQUIRED DISTRIBUTION AMOUNT.—

1           “(A) IN GENERAL.—The required distribu-  
2           tion amount with respect to a taxable year is  
3           the amount equal to 100 percent of the total re-  
4           ceipts of the scholarship granting organization  
5           for such taxable year—

6                   “(i) reduced by the sum of such re-  
7                   ceipts that are retained for administrative  
8                   expenses for the taxable year or are carried  
9                   to the succeeding taxable year under sub-  
10                  paragraph (C), and

11                  “(ii) increased by the amount of the  
12                  carryover under subparagraph (C) from  
13                  the preceding taxable year.

14           “(B) ADMINISTRATIVE EXPENSES.—For  
15           purposes of this paragraph, not more than 10  
16           percent of total receipts of a qualified workforce  
17           development organization, apprenticeship train-  
18           ing organization or scholarship granting organi-  
19           zation for a taxable year may be used for ad-  
20           ministrative purposes.

21           “(C) CARRYOVER.—

22                   “(i) QUALIFIED SCHOLARSHIP GRANT-  
23                   ING ORGANIZATION.—Receipts of a quali-  
24                   fied scholarship granting organization for a  
25                   taxable year that are not awarded scholar-



1           ships for the taxable year or retained for  
2           administrative purposes for the taxable  
3           year shall be carried to the succeeding tax-  
4           able year. The amount carried to a taxable  
5           year under the preceding sentence shall not  
6           exceed 15 percent of total receipts of the  
7           qualified scholarship granting organization  
8           for the taxable year.

9           “(ii) QUALIFIED WORKFORCE DEVEL-  
10          OPMENT OR APPRENTICESHIP TRAINING  
11          ORGANIZATION.—Receipts of a qualified  
12          workforce development or apprenticeship  
13          training organization that are not dis-  
14          bursed for the taxable year or retained for  
15          administrative purposes for the taxable  
16          year shall be carried to the succeeding tax-  
17          able year. The amount carried to the tax-  
18          able year under the preceding sentence  
19          shall not exceed 15 percent of total re-  
20          ceipts of the qualified workforce develop-  
21          ment or apprenticeship training organiza-  
22          tion for the taxable year.

23          “(2) DISTRIBUTIONS.—The term ‘distribution’  
24          includes amounts which are formally committed but  
25          not distributed. A formal commitment described in

1 the preceding sentence may include contributions set  
2 aside for eligible students or participants for more  
3 than one year.

4 “(3) DISTRIBUTION DEADLINE.—The distribu-  
5 tion deadline with respect to receipts for a taxable  
6 year is the first day of the second taxable year fol-  
7 lowing the taxable year in which such receipts are  
8 received by the scholarship granting organization.

9 “(d) REASONABLE CAUSE EXCEPTION.—The tax im-  
10 posed by subsection (a) shall not apply with respect to any  
11 failure to make required distributions before the distribu-  
12 tion deadline which is not willful and is due to reasonable  
13 cause.”.

14 (2) ABATEMENT OF TAX.—

15 (A) GENERAL RULE.—Subsection (b) of  
16 section 4962 of such Code is amended by strik-  
17 ing “or G” and inserting “G, or I”.

18 (B) FIRST TIER TAX.—Subsection (a) of  
19 section 4963 of such Code is amended by in-  
20 serting “4969,” after “4967,”.

21 (C) TAXABLE EVENT.—Subsection (c) of  
22 section 4963 of such Code is amended by in-  
23 serting “4969,” after “4967,”.

1           (3) CORRECTION PERIOD.—Subparagraph (A)  
2           of section 4963(e)(2) of such Code is amended by in-  
3           serting “or 4969” after “4942”.

4           (4) CLERICAL AMENDMENT.—The table of sub-  
5           chapters for chapter 42 of such Code is amended by  
6           adding at the end the following new item:

          “SUBCHAPTER I. ORGANIZATIONS PROVIDING WORKFORCE DEVELOPMENT,  
          APPRENTICESHIP TRAINING, OR SCHOLARSHIPS”.

7   **SEC. 4. ORGANIZATIONAL AUTONOMY.**

8           A participating eligible organization or entity under  
9           the programs established pursuant to the Education,  
10          Workforce, and Apprenticeship Tax Credit Act are auton-  
11          omous and not agents of the State or Federal Government  
12          and therefore—

13           (1) a Federal or State agency may not in any  
14           way regulate the program of a participating, entity  
15           that accepts a contribution or a scholarship under  
16           this Act,

17           (2) the provision of tax credits under this Act  
18           does not expand the regulatory authority of the Fed-  
19           eral Government, the State, its officers, or any  
20           school district to impose any additional regulation of  
21           an entity beyond those necessary to enforce the re-  
22           quirements of this Act, and

1           (3) participating eligible entities shall be given  
2           the maximum freedom to provide for the needs of  
3           their participants without government control.

4 **SEC. 5. VOLUME CAP.**

5           (a) AMOUNT.—The volume cap amount available for  
6 tax credits for purposes of this Act shall be  
7 \$2,000,000,000 annually, beginning for taxable year 2018  
8 and for each succeeding taxable year thereafter.

9           (b) APPLICATION FOR CREDITS.—The Secretary  
10 shall develop a system to track and make available infor-  
11 mation in real time, regarding availability of tax credits  
12 to donors which will be available on a first-come, first-  
13 serve basis.

14           (c) DISTRIBUTION.—Fifty percent of the annual  
15 amount made available shall be allotted by the Secretary  
16 for donations to workforce development and apprentice-  
17 ship training organizations and 50 percent for donations  
18 to scholarship granting organizations.

19 **SEC. 6. EFFECTIVE DATE.**

20           The amendments made by this Act shall apply to tax-  
21 able years ending on or after December 31, 2017.

○