

115TH CONGRESS
1ST SESSION

S. 2048

To amend the Internal Revenue Code of 1986 to provide a credit for employer-provided worker training.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2017

Mr. WARNER (for himself, Mr. CASEY, and Ms. STABENOW) 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 provide a credit for employer-provided worker training.

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 “Investing in American
5 Workers Act”.

6 **SEC. 2. EMPLOYER-PROVIDED WORKER TRAINING CREDIT.**

7 (a) IN GENERAL.—

8 (1) DETERMINATION OF CREDIT.—Subpart D
9 of part IV of subchapter A of chapter 1 of the Inter-

1 nal Revenue Code of 1986 is amended by adding at
2 the end the following new section:

3 **“SEC. 45S. EMPLOYER-PROVIDED WORKER TRAINING**
4 **CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 38, the
6 employer-provided worker training credit under this sec-
7 tion for the taxable year is an amount equal to 20 percent
8 of the excess (if any) of—

9 “(1) the qualified training expenditures for the
10 taxable year, over

11 “(2) the average of the adjusted qualified train-
12 ing expenditures for the 3 taxable years preceding
13 the taxable year for which the credit is being deter-
14 mined.

15 “(b) QUALIFIED TRAINING EXPENDITURES.—For
16 purposes of this section—

17 “(1) IN GENERAL.—The term ‘qualified train-
18 ing expenditures’ means any expenditures for the
19 qualified training of any non-highly compensated
20 employee. Such term shall not include any amounts
21 paid for meals, lodging, transportation, or other
22 services incidental to amounts described in para-
23 graph (1).

24 “(2) QUALIFIED TRAINING.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (1), the term ‘qualified training’ means
3 training which results in the attainment of a
4 recognized postsecondary credential and which
5 is provided through—

6 “(i) an apprenticeship program reg-
7 istered under the Act of August 16, 1937
8 (commonly known as the ‘National Ap-
9 prenticeship Act’; 50 Stat. 664, chapter
10 663; 29 U.S.C. 50 et seq.);

11 “(ii)(I) a program of training services
12 which is listed under section 122(d) of the
13 Workforce Innovation and Opportunity Act
14 (29 U.S.C. 3152(d)); or

15 “(II) an apprenticeship program
16 which is registered or approved by a recog-
17 nized State apprenticeship agency (which
18 uses a State apprenticeship council) in ac-
19 cordance with section 1 of the Act referred
20 to in clause (i);

21 “(iii) a program which is conducted
22 by an area career and technical education
23 school, a community college, or a labor or-
24 ganization; or

1 “(iv) a program which is sponsored
 2 and administered by an employer, industry
 3 trade association, industry or sector part-
 4 nership, or labor organization.

5 “(B) RELATED DEFINITIONS.—In sub-
 6 paragraph (A):

7 “(i) AREA CAREER AND TECHNICAL
 8 EDUCATION SCHOOL.—The term ‘area ca-
 9 reer and technical education school’ means
 10 such a school, as defined in section 3 of
 11 the Carl D. Perkins Career and Technical
 12 Education Act of 2006 (20 U.S.C. 2302),
 13 which participates in a program under that
 14 Act (20 U.S.C. 2301 et seq.).

15 “(ii) COMMUNITY COLLEGE.—The
 16 term ‘community college’ means an institu-
 17 tion which—

18 “(I) is a junior or community col-
 19 lege as defined in section 312(f) of the
 20 Higher Education Act of 1965 (20
 21 U.S.C. 1058(f)), except that the insti-
 22 tution need not meet the requirements
 23 of paragraph (1) of that section; and

1 “(II) participates in a program
2 under title IV of that Act (20 U.S.C.
3 1070 et seq.).

4 “(iii) INDUSTRY OR SECTOR PARTNER-
5 SHIP.—The term ‘industry or sector part-
6 nership’ has the meaning given such term
7 under section 3 of the Workforce Innova-
8 tion and Opportunity Act (29 U.S.C.
9 3102)

10 “(iv) INDUSTRY TRADE ASSOCIA-
11 TION.—The term ‘industry trade associa-
12 tion’ means an organization which—

13 “(I) is described in paragraph (3)
14 or (6) of section 501(c) of the Inter-
15 nal Revenue Code of 1986 and exempt
16 from taxation under section 501(a) of
17 such Code; and

18 “(II) is representing an industry.

19 “(v) LABOR ORGANIZATION.—The
20 term ‘labor organization’ means a labor or-
21 ganization, within the meaning of the term
22 in section 501(c)(5) of the Internal Rev-
23 enue Code of 1986.

24 “(vi) RECOGNIZED POSTSECONDARY
25 CREDENTIAL.—The term ‘recognized post-

secondary credential’ means a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree.

“(3) NON-HIGHLY COMPENSATED EMPLOYEE.—

For purposes of paragraph (1), the term ‘non-highly compensated employee’ means an employee of the taxpayer whose remuneration for the taxable year for services provided to the taxpayer does not exceed \$82,000.

“(c) ADJUSTED QUALIFIED TRAINING EXPENDI-

TURES.—For purposes of this section, the term ‘adjusted qualified training expenses’ means, with respect to any taxable year—

“(1) the qualified training expenses for such taxable year, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year for which the credit is being determined begins, except that section 1(f)(3)(B) shall be applied by using the CPI for the calendar year in which the taxable year in which qualified training

1 expenses were paid or incurred begins in lieu of the
 2 CPI for calendar year 1982.

3 “(d) SPECIAL RULES.—For purposes of this sec-
 4 tion—

5 “(1) SPECIAL RULE IN CASE OF NO QUALIFIED
 6 TRAINING EXPENDITURES IN ANY OF 3 PRECEDING
 7 TAXABLE YEARS.—

8 “(A) TAXPAYERS TO WHICH PARAGRAPH
 9 APPLIES.—The credit under this section shall
 10 be determined under this paragraph if the tax-
 11 payer has no qualified training expenditures in
 12 any one of the 3 taxable years preceding the
 13 taxable year for which the credit is being deter-
 14 mined.

15 “(B) CREDIT RATE.—The credit deter-
 16 mined under this paragraph shall be equal to
 17 10 percent of the adjusted qualified training ex-
 18 penditures for the taxable year.

19 “(2) AGGREGATION AND ALLOCATION OF EX-
 20 PENDITURES, ETC.—Rules similar to the rules of
 21 paragraphs (1), (2), (3), (4), and (5) of section
 22 41(f) shall apply.

23 “(e) ELECTION TO APPLY CREDIT AGAINST PAY-
 24 ROLL TAXES.—

1 “(1) IN GENERAL.—At the election of a quali-
 2 fied small business or a qualified tax-exempt organi-
 3 zation (as defined in section 3111(e)(5)(A)) for any
 4 taxable year, section 3111(g) shall apply to the pay-
 5 roll tax credit portion of the credit otherwise deter-
 6 mined under subsection (a) for the taxable year and
 7 such portion shall not be treated (other than for
 8 purposes of section 280C) as a credit determined
 9 under subsection (a).

10 “(2) PAYROLL TAX CREDIT PORTION.—For
 11 purposes of this subsection, the payroll tax credit
 12 portion of the credit determined under subsection
 13 (a) with respect to any qualified small business or
 14 qualified tax-exempt organization for any taxable
 15 year is the least of—

16 “(A) the amount specified in the election
 17 made under this subsection,

18 “(B) the credit determined under sub-
 19 section (a) for the taxable year (determined be-
 20 fore the application of this subsection), or

21 “(C) in the case of a qualified small busi-
 22 ness other than a partnership or S corporation,
 23 the amount of the business credit carryforward
 24 under section 39 carried from the taxable year

1 (determined before the application of this sub-
2 section to the taxable year).

3 “(3) QUALIFIED SMALL BUSINESS.—For pur-
4 poses of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified
6 small business’ means, with respect to any tax-
7 able year—

8 “(i) a corporation or partnership, if—

9 “(I) the gross receipts (as deter-
10 mined under the rules of section
11 448(c)(3), without regard to subpara-
12 graph (A) thereof) of such entity for
13 the taxable year is less than
14 \$5,000,000, and

15 “(II) such entity did not have
16 gross receipts (as so determined) for
17 any taxable year preceding the 5-tax-
18 able-year period ending with such tax-
19 able year, and

20 “(ii) any person (other than a cor-
21 poration or partnership) who meets the re-
22 quirements of subclauses (I) and (II) of
23 clause (i), determined—

24 “(I) by substituting ‘person’ for
25 ‘entity’ each place it appears, and

1 “(II) by only taking into account
2 the aggregate gross receipts received
3 by such person in carrying on all
4 trades or businesses of such person.

5 “(B) LIMITATION.—Such term shall not
6 include an organization which is exempt from
7 taxation under section 501.

8 “(4) ELECTION.—

9 “(A) IN GENERAL.—Any election under
10 this subsection for any taxable year—

11 “(i) shall specify the amount of the
12 credit to which such election applies,

13 “(ii) shall be made on or before the
14 due date (including extensions) of—

15 “(I) in the case of a partnership,
16 the return required to be filed under
17 section 6031,

18 “(II) in the case of an S corpora-
19 tion, the return required to be filed
20 under section 6037, and

21 “(III) in the case of any other
22 qualified small business or qualified
23 tax-exempt organization, the return of
24 tax for the taxable year, and

1 “(iii) may be revoked only with the
2 consent of the Secretary.

3 “(B) LIMITATIONS.—

4 “(i) AMOUNT.—The amount specified
5 in any election made under this subsection
6 shall not exceed \$250,000.

7 “(ii) NUMBER OF TAXABLE YEARS.—

8 A person may not make an election under
9 this subsection if such person (or any other
10 person treated as a single taxpayer with
11 such person under paragraph (5)(A)) has
12 made an election under this subsection for
13 five or more preceding taxable years.

14 “(C) SPECIAL RULE FOR PARTNERSHIPS
15 AND S CORPORATIONS.—In the case of a part-
16 nership or S corporation, the election made
17 under this subsection shall be made at the enti-
18 ty level.

19 “(5) AGGREGATION RULES.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B)—

22 “(i) all members of the same con-
23 trolled group of corporations shall be treat-
24 ed as a single taxpayer, and

1 “(ii) all trades or businesses (whether
2 or not incorporated) which are under com-
3 mon control shall be treated as a single
4 taxpayer.

5 “(B) SPECIAL RULES.—For purposes of
6 this subsection and section 3111(g)—

7 “(i) each of the persons treated as a
8 single taxpayer under subparagraph (A)
9 may separately make the election under
10 paragraph (1) for any taxable year, and

11 “(ii) the \$250,000 amount under
12 paragraph (3)(B)(i) shall be allocated
13 among all persons treated as a single tax-
14 payer under subparagraph (A) in the man-
15 ner provided by the Secretary which is
16 similar to the manner provided under sec-
17 tion 41(f)(1).

18 “(6) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations as may be necessary to carry
20 out the purposes of this subsection, including—

21 “(A) regulations to prevent the avoidance
22 of the purposes of the limitations and aggrega-
23 tion rules under this subsection,

1 “(B) regulations to minimize compliance
 2 and recordkeeping burdens under this sub-
 3 section, and

4 “(C) regulations for recapturing the ben-
 5 efit of credits determined under section 3111(g)
 6 in cases where there is a recapture or a subse-
 7 quent adjustment to the payroll tax credit por-
 8 tion of the credit determined under subsection
 9 (a), including requiring amended income tax re-
 10 turns in the cases where there is such an ad-
 11 justment.”.

12 (2) CREDIT PART OF GENERAL BUSINESS
 13 CREDIT.—Section 38(b) of the Internal Revenue
 14 Code of 1986 is amended by striking “plus” at the
 15 end of paragraph (35), by striking the period at the
 16 end of paragraph (36) and inserting “, plus”, and
 17 by adding at the end the following new paragraph:

18 “(37) the employer-provided worker training
 19 credit determined under section 45S(a).”.

20 (3) COORDINATION WITH DEDUCTIONS.—Sec-
 21 tion 280C of the Internal Revenue Code of 1986 is
 22 amended by adding at the end the following new
 23 subsection:

24 “(j) EMPLOYER-PROVIDED WORKER TRAINING
 25 CREDIT.—No deduction shall be allowed for that portion

1 of the expenses otherwise allowable as a deduction taken
 2 into account in determining the credit under section 45S
 3 for the taxable year which is equal to the amount of the
 4 credit determined for such taxable year under section
 5 45S(a).”.

6 (4) CLERICAL AMENDMENT.—The table of sec-
 7 tions for subpart D of part IV of subchapter A of
 8 chapter 1 of the Internal Revenue Code of 1986 is
 9 amended by adding at the end the following new
 10 item:

“Sec. 45S. Employer-provided worker training credit.”.

11 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 12 IMUM TAX.—Subparagraph (B) of section 38(c)(4) of the
 13 Internal Revenue Code of 1986 is amended—

14 (1) by redesignating clauses (ix), (x), and (xi)
 15 as clauses (x), (xi), and (xii), respectively, and

16 (2) by inserting after clause (viii) the following
 17 new clause:

18 “(ix) the credit determined under sec-
 19 tion 45S with respect to an eligible small
 20 business (as defined in paragraph (5)(C),
 21 after application of rules similar to the
 22 rules of paragraph (5)(D)),”.

23 (c) PAYROLL TAX CREDIT.—Section 3111 of the In-
 24 ternal Revenue Code of 1986 is amended by adding at the
 25 end the following new subsection:

1 “(g) CREDIT FOR WORKER TRAINING EXPENSES.—

2 “(1) IN GENERAL.—In the case of a taxpayer
3 who has made an election under section 45S(e) for
4 a taxable year, there shall be allowed as a credit
5 against the tax imposed by subsection (a) for the
6 first calendar quarter which begins after the date on
7 which the taxpayer files the return specified in sec-
8 tion 45S(e)(4)(A)(ii) an amount equal to the payroll
9 tax credit portion determined under section
10 45S(e)(2).

11 “(2) LIMITATION.—The credit allowed by para-
12 graph (1) shall not exceed the tax imposed by sub-
13 section (a) for any calendar quarter on the wages
14 paid with respect to the employment of all individ-
15 uals in the employ of the employer.

16 “(3) CARRYOVER OF UNUSED CREDIT.—If the
17 amount of the credit under paragraph (1) exceeds
18 the limitation of paragraph (2) for any calendar
19 quarter, such excess shall be carried to the suc-
20 ceeding calendar quarter and allowed as a credit
21 under paragraph (1) for such quarter.

22 “(4) DEDUCTION ALLOWED FOR CREDITED
23 AMOUNTS.—The credit allowed under paragraph (1)
24 shall not be taken into account for purposes of de-
25 termining the amount of any deduction allowed

1 under chapter 1 for taxes imposed under subsection
2 (a).”.

3 (d) SIMPLIFIED FILING FOR CERTAIN SMALL BUSI-
4 NESSES.—The Secretary of the Treasury shall provide for
5 a method of filing returns of tax and information returns
6 required under the Internal Revenue Code of 1986 in a
7 simplified format, to the extent possible, for employers
8 with less than \$5,000,000 in annual gross receipts (as de-
9 termined under guidance provided by the Secretary).

10 (e) REGULATIONS RELATING TO POSTSECONDARY
11 CREDENTIALS.—Not later than 1 year after the date of
12 the enactment of this Act, the Secretary of Labor, in con-
13 sultation with the Secretary of the Treasury, shall issue
14 regulations or other guidance applying the definition of
15 the term “recognized postsecondary credential” as pro-
16 vided in section 3 of the Workforce Innovation and Oppor-
17 tunity Act (29 U.S.C. 3102).

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act.

