

116TH CONGRESS
1ST SESSION

H. R. 1739

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. SMUCKER (for himself, Mr. MOONEY of West Virginia, Ms. STEFANIK, Mr. BUDD, Mr. GAETZ, Mr. COLLINS of New York, Mrs. LESKO, and Mr. KUSTOFF of Tennessee) introduced the following bill; which was referred to the Committee on Ways and Means

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 to 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 a workforce development and apprentice-
19 ship 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 “(f) APPLICATION OF VOLUME CAP.—A contribution
5 shall be taken into account under this section only if such
6 contribution is recognized by the Secretary as applying
7 against the volume cap established under section 5 of the
8 USA Workforce Tax Credit Act.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions for subpart A of part IV of subchapter A of
11 chapter 1 of such Code is amended by inserting
12 after the item relating to section 25D the following
13 new item:

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

14 (b) CREDIT FOR CORPORATIONS.—

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

18 **“SEC. 45T. CONTRIBUTIONS TO WORKFORCE DEVELOP-**
19 **MENT OR APPRENTICESHIP TRAINING ORGA-**
20 **NIZATIONS.**

21 “(a) GENERAL RULE.—For purposes of section 38,
22 in the case of a corporation, the workforce development
23 and apprenticeship training credit determined under this

1 section for the taxable year is the aggregate amount of
2 qualified contributions for the taxable year.

3 “(b) LIMITATION.—

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

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

9 “(B) \$250,000.

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

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

16 “(3) QUALIFIED CONTRIBUTIONS.—For pur-
17 poses of this section, the term ‘qualified contribu-
18 tion’ has the meaning given such term under section
19 25E.

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

1 “(d) 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 “(e) APPLICATION OF VOLUME CAP.—A contribution
5 shall be taken into account under this section only if such
6 contribution is recognized by the Secretary as applying
7 against the volume cap established under section 5 of the
8 USA Workforce Tax Credit Act.”.

9 (2) CONFORMING AMENDMENTS.—Section
10 38(b) of such Code is amended by striking “plus” at
11 the end of paragraph (31), by striking the period
12 and inserting “, plus” at the end of paragraph (32),
13 and by adding at the end the following new para-
14 graph:

15 “(33) the workforce development or apprentice-
16 ship training credit determined under section
17 45T(a).”.

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

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

22 **SEC. 3. TAX CREDIT FOR CONTRIBUTIONS TO SCHOLAR-**
23 **SHIP GRANTING ORGANIZATIONS.**

24 (a) CREDIT FOR INDIVIDUALS.—

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

5 **“SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDU-**
6 **CATION SCHOLARSHIPS.**

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

12 “(b) DOLLAR LIMITATIONS.—

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

16 “(A) 25 percent of the tax liability of the
17 taxpayer, and

18 “(B) \$250,000.

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

20 The amount allowed as a credit under subsection (a)
21 for a taxable year shall be reduced by the amount
22 allowed as a credit on any State tax return of the
23 individual for qualified contributions made by the
24 taxpayer during the taxable year.

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

3 “(1) QUALIFIED CONTRIBUTION.—The term
4 ‘qualified contribution’ means a charitable contribu-
5 tion (as defined by section 170(c)) to a scholarship
6 granting organization.

7 “(2) SCHOLARSHIP GRANTING ORGANIZA-
8 TION.—The term ‘scholarship granting organization’
9 means any organization—

10 “(A) which—

11 “(i) is described in section 501(c)(3)
12 and exempt from tax under section 501(a),
13 and

14 “(ii) is not a private foundation,

15 “(B) whose exclusive purpose is to provide
16 scholarships for tuition for qualified elementary
17 and secondary education expenses of eligible
18 students, and

19 “(C) which meets the requirements of sub-
20 section (d).

21 “(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING
22 ORGANIZATIONS.—

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

1 “(A) such organization provides scholar-
2 ships to—

3 “(i) more than 1 student, and

4 “(ii) different students attending more
5 than 1 school,

6 “(B) such organization does not provide
7 scholarships for any expenses other than quali-
8 fied elementary and secondary education ex-
9 penses,

10 “(C) such organization provides a scholar-
11 ship to eligible students with a priority for stu-
12 dents awarded a scholarship the previous school
13 year,

14 “(D) such organization does not earmark
15 or set aside contributions for scholarships on
16 behalf of any particular student,

17 “(E) such organization takes appropriate
18 steps to verify the annual household income and
19 family size of eligible students to whom it
20 awards scholarships, and limits them to a mem-
21 ber of a household with a total annual house-
22 hold income, which does not exceed 200 percent
23 of the median gross income, as determined by
24 the Secretary of Housing and Urban Develop-

1 ment, for the purposes of the low-income hous-
2 ing credit under section 42,

3 “(F) such organization obtains from an
4 independent certified public accountant annual
5 financial and compliance audits and submits
6 such audits to the Secretary,

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

9 “(H) such organization requires any eligi-
10 ble student who receives a scholarship to permit
11 such organization to share assessment informa-
12 tion and other data regarding the student for
13 the purpose of providing reports described in
14 subsection (e), and such other information as
15 necessary for the purposes of reporting on the
16 academic achievement of eligible students re-
17 ceiving a scholarship from such organization.

18 “(2) INDEPENDENT CERTIFIED PUBLIC AC-
19 COUNTANT.—For purposes of paragraph (1)(F), the
20 term ‘independent certified public accountant’
21 means, with respect to an organization, a certified
22 public accountant who is not a related person (with-
23 in the meaning of section 465(b)(3)(C)) with respect
24 to such organization or any employee of such organi-
25 zation.

1 “(e) ELIGIBLE SCHOOL REPORTING REQUIRE-
2 MENT.—

3 “(1) IN GENERAL.—The reports described in
4 this subsection include—

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

7 “(B) a report to each qualified scholarship
8 granting organization that provides scholarships
9 to students at the school, that includes the test
10 results, in the aggregate and disaggregated by
11 race or ethnicity and grade level, of the stu-
12 dents receiving such scholarships who are in
13 grades 3 through 12 on a grade-appropriate na-
14 tionally norm-referenced standardized test.

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

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

1 “(g) 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 “(h) APPLICATION OF VOLUME CAP.—A contribution
5 shall be taken into account under this section only if such
6 contribution is recognized by the Secretary as applying
7 against the volume cap established under section 5 of the
8 USA Workforce Tax Credit Act.”.

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

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

14 (b) CREDIT FOR CORPORATIONS.—

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

19 **“SEC. 45U. CONTRIBUTIONS TO SCHOLARSHIP GRANTING**
20 **ORGANIZATIONS.**

21 “(a) GENERAL RULE.—For purposes of section 38,
22 in the case of a corporation, the education scholarship
23 credit determined under this section for the taxable year
24 is the aggregate amount of qualified contributions for the
25 taxable year.

1 “(b) LIMITATION.—

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

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

7 “(B) \$250,000.

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

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

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

17 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
18 shall be allowed under any provision of this chapter for
19 any expense for which a credit is allowed under this sec-
20 tion.

21 “(e) ELECTION.—This section shall apply to a tax-
22 payer for a taxable year only if such taxpayer elects to
23 have this section apply for such taxable year.

24 “(f) APPLICATION OF VOLUME CAP.—A contribution
25 shall be taken into account under this section only if such

1 contribution is recognized by the Secretary as applying
 2 against the volume cap established under section 5 of the
 3 USA Workforce Tax Credit Act.”.

4 (2) CONFORMING AMENDMENTS.—Section
 5 38(b) of such Code, as amended by this Act, is
 6 amended by striking “plus” at the end of paragraph
 7 (32), by striking the period and inserting “, plus”
 8 at the end of paragraph (33), and by adding at the
 9 end the following new paragraph:

10 “(34) the education scholarship credit deter-
 11 mined under section 45U(a).”.

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

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

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

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

22 **“Subchapter I—Organizations Providing**
 23 **Workforce Development, Apprenticeship**
 24 **Training, or Scholarships**

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

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

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

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

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

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

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

20 “(1) REQUIRED DISTRIBUTION AMOUNT.—

21 “(A) IN GENERAL.—The required distribu-
22 tion amount with respect to a taxable year is
23 the amount equal to 100 percent of the total re-
24 cepts of the scholarship granting organization
25 for such taxable year—

1 “(i) reduced by the sum of such re-
2 ceipts that are retained for administrative
3 expenses for the taxable year or are carried
4 to the succeeding taxable year under sub-
5 paragraph (C), and

6 “(ii) increased by the amount of the
7 carryover under subparagraph (C) from
8 the preceding taxable year.

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

16 “(C) CARRYOVER.—

17 “(i) QUALIFIED SCHOLARSHIP GRANT-
18 ING ORGANIZATION.—Receipts of a quali-
19 fied scholarship granting organization for a
20 taxable year that are not awarded scholar-
21 ships for the taxable year or retained for
22 administrative purposes for the taxable
23 year shall be carried to the succeeding tax-
24 able year. The amount carried to a taxable
25 year under the preceding sentence shall not

1 exceed 15 percent of total receipts of the
2 qualified scholarship granting organization
3 for the taxable year.

4 “(ii) QUALIFIED WORKFORCE DEVELOPMENT OR APPRENTICESHIP TRAINING ORGANIZATION.—Receipts of a qualified workforce development or apprenticeship training organization that are not disbursed for the taxable year or retained for administrative purposes for the taxable year shall be carried to the succeeding taxable year. The amount carried to the taxable year under the preceding sentence shall not exceed 15 percent of total receipts of the qualified workforce development or apprenticeship training organization for the taxable year.

18 “(2) DISTRIBUTIONS.—The term ‘distribution’
19 includes amounts which are formally committed but
20 not distributed. A formal commitment described in
21 the preceding sentence may include contributions set
22 aside for eligible students or participants for more
23 than one year.

24 “(3) DISTRIBUTION DEADLINE.—The distribu-
25 tion deadline with respect to receipts for a taxable

1 year is the first day of the second taxable year fol-
2 lowing the taxable year in which such receipts are
3 received by the scholarship granting organization.

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

9 (2) ABATEMENT OF TAX.—

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

13 (B) FIRST TIER TAX.—Subsection (a) of
14 section 4963 of such Code is amended by in-
15 sserting “4969,” after “4967,”.

16 (C) TAXABLE EVENT.—Subsection (c) of
17 section 4963 of such Code is amended by in-
18 sserting “4969,” after “4967,”.

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

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

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

1 **SEC. 4. ORGANIZATIONAL AUTONOMY.**

2 A participating eligible organization or entity under
3 the programs established pursuant to the USA Workforce
4 Tax Credit Act are autonomous and not agents of the
5 State or Federal Government and therefore—

6 (1) a Federal or State agency may not in any
7 way regulate the program of a participating entity
8 that accepts a contribution or a scholarship under
9 this Act;

10 (2) the provision of tax credits under this Act
11 does not expand the regulatory authority of the Fed-
12 eral Government, the State, its officers, or any
13 school district to impose any additional regulation of
14 an entity beyond those necessary to enforce the re-
15 quirements of this Act; and

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

19 **SEC. 5. VOLUME CAP.**

20 (a) AMOUNT.—The volume cap amount available for
21 tax credits for purposes of this Act shall be
22 \$2,000,000,000 annually, beginning for taxable years be-
23 ginning in 2020 and for each succeeding calendar year
24 thereafter.

25 (b) APPLICATION FOR CREDITS.—The Secretary
26 shall develop a system to track and make available infor-

1 mation in real time, regarding availability of tax credits
2 to donors which will be available on a first-come, first-
3 serve basis.

4 (c) DISTRIBUTION.—Fifty percent of the annual
5 amount made available shall be allotted by the Secretary
6 for donations to workforce development and apprentice-
7 ship training organizations and 50 percent for donations
8 to scholarship granting organizations.

9 **SEC. 6. EFFECTIVE DATE.**

10 The amendments made by this Act shall apply to tax-
11 able years beginning after December 31, 2019.

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