

112TH CONGRESS
2D SESSION

S. 3466

To amend the Internal Revenue Code of 1986 to provide a credit for employer-provided job training, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2012

Mr. MENENDEZ 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 job training, 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.**

4 This Act may be cited as the “Better Education and
5 Skills Training for America’s Workforce Act”.

6 **SEC. 2. JOB TRAINING TAX CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by adding at the end the following new
10 section:

1 **“SEC. 45S. JOB TRAINING CREDIT.**

2 “(a) IN GENERAL.—For the purposes of section 38,
3 the job training credit determined under this section for
4 the taxable year is an amount equal to 100 percent of the
5 qualified training expenses paid by the qualifying taxpayer
6 during the taxable year.

7 “(b) LIMITATION.—The credit allowed under sub-
8 section (a) with respect to any eligible trainee of the quali-
9 fying taxpayer shall not exceed the excess (if any) of
10 \$4,000 over the aggregate credit allowed to such taxpayer
11 under this section with respect to such eligible trainee for
12 all prior taxable years.

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

14 “(1) QUALIFIED TRAINING EXPENSES.—

15 “(A) IN GENERAL.—The term ‘qualified
16 training expenses’ means, with respect to any
17 eligible trainee of the qualifying taxpayer, ex-
18 penses paid or incurred by such taxpayer for
19 qualified tuition costs of such eligible trainee.

20 “(B) QUALIFIED TUITION COSTS.—The
21 term ‘qualified tuition costs’ means costs for
22 books and enrollment in a training program at
23 a qualified educational organization, the out-
24 come of which, if completed, will provide the eli-
25 gible trainee a certificate or credential recog-
26 nized by a State accrediting body, Federal Ap-

1 prenticeship Agency, or any other national ac-
2 crediting body recognized by the Department of
3 Education as an independent, third-party ac-
4 crediting body. Such training program—

5 “(i) may include a single course, mul-
6 tiple courses, or a combination of work
7 training and study, and

8 “(ii) must be reasonably necessary for
9 employment with the qualifying taxpayer.

10 “(C) QUALIFIED EDUCATIONAL ORGANIZA-
11 TION.—The term ‘qualified educational organi-
12 zation’ means any educational organization de-
13 scribed in section 101 of the Higher Education
14 Act of 1965.

15 “(2) QUALIFYING TAXPAYER.—The term ‘quali-
16 fying taxpayer’ means any taxpayer who—

17 “(A) with respect to any eligible trainee, is
18 training and hiring individuals for positions
19 based in the United States, and

20 “(B) provides, with respect to any eligible
21 trainee, such documentation as required by the
22 Secretary regarding qualified training expenses
23 and proof of unemployment status as described
24 in paragraph (3)(A).

1 “(3) ELIGIBLE TRAINEE.—The term ‘eligible
2 trainee’ means any individual who—

3 “(A) has been unemployed for at least 90
4 days before the date of enrollment in a training
5 program described in paragraph (1)(B), and

6 “(B) had not been employed by the quali-
7 fying taxpayer at any time prior to the date on
8 which such trainee was hired.

9 “(d) SPECIAL RULES.—

10 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
11 shall be allowed under subsection (a) for any quali-
12 fied training expense for which a deduction or other
13 credit is allowed to the taxpayer under any other
14 provision of this chapter.

15 “(2) AGGREGATION.—For purposes of this sec-
16 tion, all persons treated as a single employer under
17 subsection (a) or (b) or section 52, or subsection (m)
18 or (o) of section 414, shall be treated as one person.

19 “(e) ELECTION TO HAVE CREDIT NOT APPLY.—A
20 taxpayer may elect (at such time and in such manner as
21 the Secretary may by regulations prescribe) to have this
22 section not apply for any taxable year.

23 “(f) TERMINATION.—This section shall not apply to
24 expenses paid after December 31, 2015.”.

1 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 2 CREDIT.—Subsection (b) of section 38 of the Internal
 3 Revenue Code of 1986 is amended by striking “plus” at
 4 the end of paragraph (35), by striking the period at the
 5 end of paragraph (36) and inserting “, plus”, and by add-
 6 ing at the end the following new paragraph:

7 “(37) the job training credit determined under
 8 section 45S(a).”.

9 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 10 IMUM TAX.—Section 38(c)(4)(B) of the Internal Revenue
 11 Code of 1986 is amended by redesignating clauses (vii),
 12 (viii), and (ix) as clauses (viii), (ix), and (x), respectively,
 13 and by inserting after clause (vi) the following new clause:

14 “(vii) the credit determined under sec-
 15 tion 45S,”.

16 (d) TECHNICAL AMENDMENT.—Section 6501(m) of
 17 the Internal Revenue Code of 1986 is amended by insert-
 18 ing “‘45S(e),’” after “‘45H(g),’”.

19 (e) CLERICAL AMENDMENT.—The table of sections
 20 for subpart D of part IV of subchapter A of chapter 1
 21 of such Code is amended by adding at the end the fol-
 22 lowing new item:

“Sec. 45S. Job training credit.”.

23 (f) EFFECTIVE DATES.—

24 (1) IN GENERAL.—The amendments made by
 25 this section shall apply to expenses paid or incurred

1 after the date of the enactment of this Act, in tax-
2 able years ending after such date.

3 (2) **MINIMUM TAX.**—The amendments made by
4 subsection (c) shall apply to credits determined
5 under section 45S of the Internal Revenue Code of
6 1986 in taxable years ending after the date of the
7 enactment of this Act, and to carrybacks of such
8 credits.

9 **SEC. 3. QUALIFIED JOB TRAINING PARTNERSHIPS CREDIT.**

10 (a) **IN GENERAL.**—Subpart E of part IV of sub-
11 chapter A of chapter 1 of the Internal Revenue Code of
12 1986 is amended by inserting after section 48D the fol-
13 lowing new section:

14 **“SEC. 48E. QUALIFIED JOB TRAINING PARTNERSHIPS**
15 **CREDIT.**

16 “(a) **IN GENERAL.**—For purposes of section 46, the
17 Qualified Job Training Partnership credit for any taxable
18 year is an amount equal to the percentage determined by
19 the Secretary (not to exceed 100 percent) of the qualified
20 investment for such taxable year with respect to any
21 Qualified Job Training Partnership.

22 “(b) **QUALIFIED INVESTMENT.**—

23 “(1) **IN GENERAL.**—For purposes of subsection
24 (a), the qualified investment for any taxable year is
25 the aggregate amount of the costs paid or incurred

1 in such taxable year for expenses necessary for and
2 directly related to the conduct of a Qualified Job
3 Training Partnership in the form of contributions of
4 cash, cash equivalent, equipment, or any combina-
5 tion of the three where 100 percent of the invest-
6 ment is used for the planning, implementation, or
7 operation of a Qualified Job Training Partnership
8 and the training financed through the investment
9 must result in a type of certificate or credential rec-
10 ognized by a State accrediting body, Federal Ap-
11 prenticeship Agency, or any other national accred-
12 iting body recognized by the Department of Edu-
13 cation as an independent, third-party accrediting
14 body.

15 “(2) LIMITATION.—The amount which is treat-
16 ed as qualified investment for all taxable years with
17 respect to any Qualified Job Training Partnership
18 shall not exceed the amount certified by the Sec-
19 retary as eligible for the credit under this section.

20 “(3) EXCLUSIONS.—The qualified investment
21 for any taxable year with respect to any Qualified
22 Job Training Partnership shall not take into account
23 any cost for student tuition or for any other expense
24 as determined by the Secretary as appropriate to
25 carry out the purposes of this section.

1 “(4) CERTAIN PROGRESS EXPENDITURE RULES
 2 MADE APPLICABLE.—In the case of costs described
 3 in paragraph (1) that are paid for property of a
 4 character subject to an allowance for depreciation,
 5 rules similar to the rules of subsections (c)(4) and
 6 (d) of section 46 (as in effect on the day before the
 7 date of the enactment of the Revenue Reconciliation
 8 Act of 1990) shall apply for purposes of this section.

9 “(c) QUALIFIED JOB TRAINING PARTNERSHIP.—

10 “(1) IN GENERAL.—The term ‘Qualified Job
 11 Training Partnership’ means a formal or informal
 12 partnership between at least 1 eligible private busi-
 13 ness employer and—

14 “(A) 1 qualified educational institution, or

15 “(B) 1 labor organization (as defined in
 16 section 2(5) of the National Labor Relations
 17 Act),

18 where the stated goal of the partnership is to train
 19 students in job-ready skills.

20 “(2) ELIGIBLE PRIVATE BUSINESS EM-
 21 PLOYER.—The term ‘eligible private business em-
 22 ployer’ means—

23 “(A) a business entity at least 50 percent
 24 of the gross income of which is derived from

1 qualified production activities (within the mean-
2 ing of section 199(c)), or

3 “(B) any type of domestic business entity
4 the average number of employees of which for
5 any taxable year is not more than 500 employ-
6 ees.

7 “(3) QUALIFIED EDUCATIONAL ORGANIZA-
8 TION.—The term ‘qualified educational organization’
9 means any educational organization described in sec-
10 tion 101 of the Higher Education Act of 1965 which
11 provides a 2-year program that culminates in an as-
12 sociate degree.

13 “(d) QUALIFIED JOB TRAINING PARTNERSHIP PRO-
14 GRAM.—

15 “(1) ESTABLISHMENT.—

16 “(A) IN GENERAL.—Not later than 60
17 days after the date of the enactment of this sec-
18 tion, the Secretary, in consultation with the
19 Secretary of Labor, shall establish a Qualified
20 Job Training Partnership program to consider
21 and award certifications for qualified invest-
22 ments eligible for credits under this section to
23 Qualified Job Training Partnerships.

1 “(B) LIMITATION.—The total amount of
2 credits that may be allocated under the pro-
3 gram shall not exceed \$1,000,000,000.

4 “(2) CERTIFICATION.—

5 “(A) APPLICATION PERIOD.—Each appli-
6 cant for certification under this paragraph shall
7 submit an application containing such informa-
8 tion as the Secretary may require during the
9 period beginning on the date the Secretary es-
10 tablishes the program under paragraph (1).

11 “(B) TIME FOR REVIEW OF APPLICA-
12 TIONS.—The Secretary shall take action to ap-
13 prove or deny any application under subpara-
14 graph (A) within 30 days of the submission of
15 such application.

16 “(C) MULTI-YEAR APPLICATIONS.—An ap-
17 plication for certification under subparagraph
18 (A) may include a request for an allocation of
19 credits for more than 1 year.

20 “(3) SELECTION CRITERIA.—In determining
21 the Qualified Job Training Partnerships with re-
22 spect to which qualified investments may be certified
23 under this section, the Secretary—

24 “(A) shall give priority to those applica-
25 tions which demonstrate—

1 “(i) the greatest probability that those
2 who complete the program will secure em-
3 ployment;

4 “(ii) the greatest potential for pro-
5 viding workers who complete the program
6 with skills that can provide long-term job
7 and income security;

8 “(iii) the strongest market demand
9 for the type of training offered;

10 “(iv) the greatest probability that the
11 program would create a net increase in job
12 training opportunities;

13 “(v) a strong need in the community
14 for skills training;

15 “(vi) the ability to allow nontradi-
16 tional learners to complete the training;
17 and

18 “(vii) the ability and capacity to im-
19 plement the program in a reasonable pe-
20 riod of time; and

21 “(B) shall take into additional consider-
22 ation which applications show—

23 “(i) the ability to leverage additional
24 sources of capital; and

1 “(ii) the greatest ability to offer train-
2 ing programs that result in a certificate or
3 credential (within the meaning of sub-
4 section (b)(1)) that is stackable or portable
5 or both.

6 “(4) REVIEW AND ADDITIONAL ALLOCATION.—

7 “(A) REVIEW.—Not later than 1 year after
8 the date of enactment of this section, the Sec-
9 retary shall review the credits allocated under
10 this section as of such date.

11 “(B) ADDITIONAL ALLOCATION.—If the
12 Secretary determines at the time of the review
13 that credits under this section are available for
14 allocation pursuant to the requirements set
15 forth in paragraph (2), the Secretary is author-
16 ized to allocate such available credits through
17 the conduct of an additional program or pro-
18 grams for applications for certification.

19 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
20 retary shall, upon making a certification under this
21 subsection, publicly disclose the identity of the appli-
22 cant and the amount of the credit with respect to
23 such applicant.

24 “(e) SPECIAL RULES.—

1 “(1) BASIS ADJUSTMENT.—For purposes of
2 this subtitle, if a credit is allowed under this section
3 for an expenditure related to property of a character
4 subject to an allowance for depreciation, the basis of
5 such property shall be reduced by the amount of
6 such credit.

7 “(2) DENIAL OF DOUBLE BENEFIT.—

8 “(A) BONUS DEPRECIATION.—A credit
9 shall not be allowed under this section for any
10 investment for which bonus depreciation is al-
11 lowed under section 168(k), 1400L(b)(1), or
12 1400N(d)(1).

13 “(B) DEDUCTIONS.—No deduction under
14 this subtitle shall be allowed for the portion of
15 the expenses otherwise allowable as a deduction
16 taken into account in determining the credit
17 under this section for the taxable year which is
18 equal to the amount of the credit determined
19 for such taxable year under subsection (a) at-
20 tributable to such portion. This subparagraph
21 shall not apply to expenses related to property
22 of a character subject to an allowance for de-
23 preciation the basis of which is reduced under
24 paragraph (1), or which are described in section
25 280C(g).”.

1 (b) INCLUSION AS PART OF INVESTMENT CREDIT.—
2 Section 46 of the Internal Revenue Code of 1986 is
3 amended—

4 (1) by adding a comma at the end of paragraph
5 (4),

6 (2) by striking “and” at the end of paragraph
7 (5),

8 (3) by striking the period at the end of para-
9 graph (6) and inserting “, and”, and

10 (4) by adding at the end the following new
11 paragraph:

12 “(7) the Qualified Job Training Partnerships
13 credit.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 49(a)(1)(C) of the Internal Revenue
16 Code of 1986 is amended—

17 (A) by striking “and” at the end of clause
18 (v),

19 (B) by striking the period at the end of
20 clause (vi) and inserting “, and”, and

21 (C) by adding at the end the following new
22 clause:

23 “(vii) the basis of any property to
24 which paragraph (1) of section 48E(e) ap-
25 plies which is part of a Qualified Job

1 Training Partnership under such section
2 48E.”.

3 (2) Section 280C of such Code is amended by
4 adding at the end the following new subsection:

5 “(j) QUALIFIED JOB TRAINING PARTNERSHIP CRED-
6 IT.—

7 “(1) IN GENERAL.—No deduction shall be al-
8 lowed for that portion of the qualified investment (as
9 defined in section 48E(b)) otherwise allowable as a
10 deduction for the taxable year which is equal to the
11 amount of the credit determined for such taxable
12 year under section 48E(a), reduced by—

13 “(A) the amount disallowed as a deduction
14 by reason of section 48E(e)(2)(B), and

15 “(B) the amount of any basis reduction
16 under section 48E(e)(1).

17 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
18 ITALIZES RATHER THAN DEDUCTS EXPENSES.—In
19 the case of expenses described in paragraph (1)(A)
20 taken into account in determining the credit under
21 section 48E for the taxable year, if—

22 “(A) the amount of the portion of the
23 credit determined under such section with re-
24 spect to such expenses, exceeds

1 “(B) the amount allowable as a deduction
 2 for such taxable year for such expenses (deter-
 3 mined without regard to paragraph (1)),
 4 the amount chargeable to capital account for the
 5 taxable year for such expenses shall be reduced by
 6 the amount of such excess.

7 “(3) CONTROLLED GROUPS.—Paragraph (3) of
 8 subsection (b) shall apply for purposes of this sub-
 9 section.”.

10 (d) CLERICAL AMENDMENT.—The table of sections
 11 for subpart E of part IV of subchapter A of chapter 1
 12 of the Internal Revenue Code of 1986 is amended by in-
 13 serting after the item relating to section 48D the following
 14 new item:

“Sec. 48E. Qualified Job Training Partnership credit.”.

15 (e) GRANTS FOR QUALIFIED INVESTMENTS IN
 16 QUALIFIED JOB TRAINING PARTNERSHIPS IN LIEU OF
 17 TAX CREDITS.—

18 (1) IN GENERAL.—Upon application, the Sec-
 19 retary of the Treasury shall, subject to the require-
 20 ments of this subsection, provide a grant to each
 21 person who makes a qualified investment in a Quali-
 22 fied Job Training Partnership in an amount not to
 23 exceed 100 percent of such investment.

24 (2) APPLICATION.—

1 (A) IN GENERAL.—At the stated election
2 of the applicant, an application for certification
3 under section 48E(d)(2) of the Internal Rev-
4 enue Code of 1986 for a credit under such sec-
5 tion for any taxable year shall be considered to
6 be an application for a grant under paragraph
7 (1) for such taxable year.

8 (B) SUBMISSION DATE.—An application
9 for a grant under paragraph (1) for any taxable
10 year shall be submitted—

11 (i) not earlier than the day after the
12 last day of such taxable year, and

13 (ii) not later than the due date (in-
14 cluding extensions) for filing the return of
15 tax for such taxable year.

16 (C) INFORMATION TO BE SUBMITTED.—An
17 application for a grant under paragraph (1)
18 shall include such information and be in such
19 form as the Secretary of the Treasury may re-
20 quire to state the amount of the credit allow-
21 able (but for the receipt of a grant under this
22 subsection) under section 48E for the taxable
23 year for the qualified investment with respect to
24 which such application is made.

25 (3) TIME FOR PAYMENT OF GRANT.—

1 (A) IN GENERAL.—The Secretary of the
2 Treasury shall make payment of the amount of
3 any grant under paragraph (1) during the 30-
4 day period beginning on the later of—

5 (i) the date of the application for such
6 grant, or

7 (ii) the date the qualified investment
8 for which the grant is being made is made.

9 (B) REGULATIONS.—In the case of invest-
10 ments of an ongoing nature, the Secretary of
11 the Treasury shall issue regulations to deter-
12 mine the date on which a qualified investment
13 shall be deemed to have been made for purposes
14 of this paragraph.

15 (4) QUALIFIED INVESTMENT.—For purposes of
16 this subsection, the term “qualified investment”
17 means a qualified investment that is certified under
18 section 48E(d) of the Internal Revenue Code of
19 1986 for purposes of the credit under such section
20 48E.

21 (5) APPLICATION OF CERTAIN RULES.—

22 (A) IN GENERAL.—In making grants
23 under this subsection, the Secretary of the
24 Treasury shall apply rules similar to the rules
25 of section 50 of the Internal Revenue Code of

1 1986. In applying such rules, any increase in
2 tax under chapter 1 of such Code by reason of
3 an investment ceasing to be a qualified invest-
4 ment shall be imposed on the person to whom
5 the grant was made.

6 (B) SPECIAL RULES.—

7 (i) RECAPTURE OF EXCESSIVE GRANT
8 AMOUNTS.—If the amount of a grant made
9 under this subsection exceeds the amount
10 allowable as a grant under this subsection,
11 such excess shall be recaptured under sub-
12 paragraph (A) as if the investment to
13 which such excess portion of the grant re-
14 lates had ceased to be a qualified invest-
15 ment immediately after such grant was
16 made.

17 (ii) GRANT INFORMATION NOT TREAT-
18 ED AS RETURN INFORMATION.—In no
19 event shall the amount of a grant made
20 under paragraph (1), the identity of the
21 person to whom such grant was made, or
22 a description of the investment with re-
23 spect to which such grant was made be
24 treated as return information for purposes

1 of section 6103 of the Internal Revenue
2 Code of 1986.

3 (6) SECRETARY.—Any reference in this sub-
4 section to the Secretary of the Treasury shall be
5 treated as including the Secretary's delegate.

6 (7) OTHER TERMS.—Any term used in this sub-
7 section which is also used in section 48E of the In-
8 ternal Revenue Code of 1986 shall have the same
9 meaning for purposes of this subsection as when
10 used in such section.

11 (8) DENIAL OF DOUBLE BENEFIT.—No credit
12 shall be allowed under section 46(7) of the Internal
13 Revenue Code of 1986 by reason of section 48E of
14 such Code for any investment for which a grant is
15 awarded under this subsection.

16 (9) APPROPRIATIONS.—There is hereby appro-
17 priated to the Secretary of the Treasury such sums
18 as may be necessary to carry out this subsection.

19 (f) EFFECTIVE DATE.—The amendments made by
20 subsections (a) through (d) of this section shall apply to
21 amounts paid or incurred after the date of the enactment
22 of this Act, in taxable years beginning after such date.

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