

114TH CONGRESS
1ST SESSION

S. 959

To establish a tax credit for on-site apprenticeship programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2015

Ms. CANTWELL (for herself and Ms. COLLINS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To establish a tax credit for on-site apprenticeship programs,
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 “Apprenticeship and
5 Jobs Training Act of 2015”.

6 **SEC. 2. TAX CREDIT FOR APPRENTICESHIP PROGRAMS.**

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. CREDIT FOR APPRENTICESHIP PROGRAM EX-**
 2 **PENSES.**

3 “(a) TAX CREDIT.—

4 “(1) IN GENERAL.—For purposes of section 38,
 5 in the case of an employer, the apprenticeship pro-
 6 gram credit determined under this section for any
 7 taxable year with respect to each qualified individual
 8 in a qualified apprenticeship program is an amount
 9 equal to the lesser of—

10 “(A) the amount of any wages (as defined
 11 in section 51(c)(1)) paid or incurred by the em-
 12 ployer with respect to such qualified individual
 13 during the taxable year, or

14 “(B) \$5,000.

15 “(2) ESTABLISHED APPRENTICESHIP PRO-
 16 GRAMS.—

17 “(A) IN GENERAL.—The apprenticeship
 18 program credit determined under this section
 19 for the taxable year shall only be applicable to
 20 the number of qualified individuals in a quali-
 21 fied apprenticeship program which are in excess
 22 of the apprenticeship participation average for
 23 such employer (as determined under subpara-
 24 graph (B)).

25 “(B) APPRENTICESHIP PARTICIPATION AV-
 26 ERAGE.—For purposes of subparagraph (A),

1 the apprenticeship participation average shall
 2 be equal to the average of the total number of
 3 qualified individuals in the qualified apprentice-
 4 ship program of the employer for—

5 “(i) the 3 preceding taxable years, or

6 “(ii) the number of taxable years in
 7 which the qualified apprenticeship program
 8 was in existence, whichever is less.

9 “(3) DENIAL OF DOUBLE BENEFIT.—No deduc-
 10 tion or any other credit shall be allowed under this
 11 chapter for any amount taken into account in deter-
 12 mining the credit under this section.

13 “(4) ELECTION NOT TO CLAIM CREDIT.—This
 14 section shall not apply to a taxpayer for any taxable
 15 year if such taxpayer elects to have this section not
 16 apply for such taxable year.

17 “(5) LIMITATION.—The apprenticeship pro-
 18 gram credit under this section shall not be allowed
 19 for more than 3 taxable years with respect to any
 20 qualified individual.

21 “(b) QUALIFIED INDIVIDUAL.—

22 “(1) IN GENERAL.—For purposes of this sec-
 23 tion, the term ‘qualified individual’ means, with re-
 24 spect to any taxable year, an individual who is an
 25 apprentice and—

1 “(A) is participating in a qualified appren-
2 ticeship program with an employer that is sub-
3 ject to the terms of a valid apprenticeship
4 agreement (as defined in section 29.7 of title 29
5 of the Code of Federal Regulations),

6 “(B) has been employed under a qualified
7 apprenticeship program for a period of not less
8 than 7 months that ends within the taxable
9 year,

10 “(C) is not a highly compensated employee
11 (as defined in section 414(q)), and

12 “(D) is not a seasonal worker (as defined
13 in section 45R(d)(5)(B)).

14 “(2) TRAINING RECEIVED BY MEMBERS OF THE
15 ARMED FORCES.—An employer shall consider and
16 may accept, in the case of a qualified individual par-
17 ticipating in a qualified apprenticeship program, any
18 relevant training or instruction received by such in-
19 dividual while serving in the Armed Forces of the
20 United States, for the purpose of satisfying the ap-
21 plicable training and instruction requirements under
22 such qualified apprenticeship program.

23 “(3) INELIGIBILITY OF CERTAIN INDIVID-
24 UALS.—For purposes of this subsection, paragraphs
25 (1) and (2) of section 51(i) shall apply.

1 “(c) QUALIFIED APPRENTICESHIP PROGRAM.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the term ‘qualified apprenticeship program’
4 means an apprenticeship program (as defined in sec-
5 tion 29.2 of title 29 of the Code of Federal Regula-
6 tions), whether or not such program is administered
7 by the employer, which—

8 “(A) provides qualified individuals with on-
9 the-job training and instruction for a qualified
10 occupation with the employer,

11 “(B) is registered with the Office of Ap-
12 prenticeship of the Employment and Training
13 Administration of the Department of Labor or
14 a State apprenticeship agency recognized by
15 such Office of Apprenticeship,

16 “(C) maintains records relating to the
17 qualified individual, in such manner as the Sec-
18 retary, after consultation with the Secretary of
19 Labor, may prescribe, and

20 “(D) satisfies such other requirements as
21 the Secretary, after consultation with the Sec-
22 retary of Labor, may prescribe.

23 “(2) QUALIFIED OCCUPATION.—For purposes
24 of paragraph (1)(A), the term ‘qualified occupation’
25 means a skilled trade occupation in a high-demand

1 mechanical, technical, healthcare, or technology field
 2 (or such other occupational field as the Secretary,
 3 after consultation with the Secretary of Labor, may
 4 prescribe) that satisfies the criteria for an
 5 apprenticeable occupation under section 29.4 of title
 6 29 of the Code of Federal Regulations.

7 “(d) APPRENTICESHIP AGREEMENT.—

8 “(1) IN GENERAL.—For purposes of this sec-
 9 tion, the term ‘apprenticeship agreement’ means an
 10 agreement between a qualified individual and an em-
 11 ployer that satisfies the criteria under section 29.7
 12 of title 29 of the Code of Federal Regulations.

13 “(2) CREDIT FOR TRAINING RECEIVED UNDER
 14 APPRENTICESHIP AGREEMENT.—If a qualified indi-
 15 vidual has received training or instruction through a
 16 qualified apprenticeship program with an employer
 17 which is subsequently unable to satisfy its obliga-
 18 tions under the apprenticeship agreement, such indi-
 19 vidual may transfer any completed training or in-
 20 struction for purposes of satisfying any applicable
 21 training and instruction requirements under a sepa-
 22 rate apprenticeship agreement with a different em-
 23 ployer.

24 “(e) APPLICATION OF CERTAIN RULES.—For pur-
 25 poses of this section, all persons treated as a single em-

1 ployer under subsection (a) or (b) of section 52, or sub-
 2 sections (m) or (o) of section 414, shall be treated as a
 3 single person.

4 “(f) REGULATIONS.—The Secretary shall prescribe
 5 such regulations as may be necessary to carry out the pro-
 6 visions of this section, including regulations to provide for
 7 application of paragraphs (1) and (2) of subsection (a)
 8 with respect to qualified individuals in a qualified appren-
 9 ticeship program who are employed by more than 1 em-
 10 ployer.”.

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

17 “(37) the apprenticeship program expenses
 18 credit determined under section 45S(a).”.

19 (c) CLERICAL AMENDMENT.—The table of sections
 20 for subpart D of part IV of subchapter A of chapter 1
 21 of the Internal Revenue Code of 1986 is amended by add-
 22 ing at the end the following new item:

“Sec. 45S. Credit for apprenticeship program expenses.”.

23 (d) CONFORMING AMENDMENTS.—

1 (1) RULE FOR EMPLOYMENT CREDITS.—Sec-
2 tion 280C(a) of the Internal Revenue Code of 1986
3 is amended by inserting “45S(a),” after “45P(a),”.

4 (2) EXCLUSION FOR DETERMINATION OF CRED-
5 IT FOR INCREASING RESEARCH ACTIVITIES.—Clause
6 (iii) of section 41(b)(2)(D) of such Code is amended
7 by inserting “the apprenticeship program credit
8 under section 45S(a) or” after “in determining”.

9 (e) EVALUATION.—Not later than 3 years after the
10 date of the enactment of this Act, and annually thereafter,
11 the Comptroller General of the United States shall submit
12 a report to the Committees on Finance and Health, Edu-
13 cation, Labor, and Pensions of the Senate and the Com-
14 mittees on Ways and Means and Education and the Work-
15 force of the House of Representatives that contains an
16 evaluation of the activities authorized under this Act, in-
17 cluding—

18 (1) the extent to which qualified individuals
19 completed qualified apprenticeship programs;

20 (2) whether qualified individuals remained em-
21 ployed by an employer that received an apprentice-
22 ship program credit under section 45S of the Inter-
23 nal Revenue Code of 1986 and the length of such
24 employment following expiration of the apprentice-
25 ship period;

1 (3) whether qualified individuals who completed
 2 a qualified apprenticeship program remained em-
 3 ployed in the same occupation or field; and

4 (4) recommendations for legislative and admin-
 5 istrative actions to improve the effectiveness of the
 6 apprenticeship program credit under section 45S of
 7 the Internal Revenue Code of 1986.

8 (f) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 2015.

11 **SEC. 3. ENCOURAGING MENTORS TO TRAIN THE FUTURE.**

12 (a) EARLY DISTRIBUTIONS FROM QUALIFIED RE-
 13 TIREMENT PLANS.—Section 72(t)(2) of the Internal Rev-
 14 enue Code of 1986 is amended—

15 (1) in subparagraph (A)—

16 (A) by striking “or” at the end of clause
 17 (vii);

18 (B) by striking the period at the end of
 19 clause (viii) and inserting “, or”; and

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

22 “(ix) made to an employee who is
 23 serving as a mentor.”; and

24 (2) by adding at the end the following new sub-
 25 paragraph:

1 “(H) DISTRIBUTIONS TO MENTORS.—For
2 purposes of this paragraph, the term ‘mentor’
3 means an individual who—

4 “(i) has attained 55 years of age,

5 “(ii) is not separated from their em-
6 ployment with a company, corporation, or
7 institution of higher education,

8 “(iii) in accordance with such require-
9 ments and standards as the Secretary de-
10 termines to be necessary, has substantially
11 reduced their hours of employment with
12 their employer, with the individual to be
13 engaged in mentoring activities described
14 in clause (iv) for not less than 20 percent
15 of the hours of employment after such re-
16 duction, and

17 “(iv) is responsible for the training
18 and education of employees or students in
19 an area of expertise for which the indi-
20 vidual has a professional credential, certifi-
21 cate, or degree.”.

22 (b) DISTRIBUTIONS DURING WORKING RETIRE-
23 MENT.—Paragraph (36) of section 401(a) of the Internal
24 Revenue Code of 1986 is amended to read as follows:

1 “(36) DISTRIBUTIONS DURING WORKING RE-
2 TIREMENT.—

3 “(A) IN GENERAL.—A trust forming part
4 of a pension plan shall not be treated as failing
5 to constitute a qualified trust under this section
6 solely because the plan provides that a distribu-
7 tion may be made from such trust to an em-
8 ployee who—

9 “(i) has attained age 62 and who is
10 not separated from employment at the
11 time of such distribution, or

12 “(ii) subject to subparagraph (B), is
13 serving as a mentor (as such term is de-
14 fined in section 72(t)(2)(H)).

15 “(B) LIMITATION ON DISTRIBUTIONS TO
16 MENTORS.—For purposes of subparagraph
17 (A)(ii), the amount of the distribution made to
18 an employee who is serving as a mentor shall
19 not be greater than the amount equal to the
20 product obtained by multiplying—

21 “(i) the amount of the distribution
22 that would have been payable to the em-
23 ployee if such employee had separated
24 from employment instead of reducing their
25 hours of employment with their employer

1 and engaging in mentoring activities, in ac-
 2 cordance with clauses (iii) and (iv) of sec-
 3 tion 72(t)(2)(H), by

4 “(ii) the percentage equal to the
 5 quotient obtained by dividing—

6 “(I) the sum of—

7 “(aa) the number of hours
 8 per pay period by which the em-
 9 ployee’s hours of employment are
 10 reduced, and

11 “(bb) the number of hours
 12 of employment that such em-
 13 ployee is engaging in mentoring
 14 activities, by

15 “(II) the total number of hours
 16 per pay period worked by the em-
 17 ployee before such reduction in hours
 18 of employment.”.

19 (c) ERISA.—Subparagraph (A) of section 3(2) of the
 20 Employee Retirement Income Security Act of 1974 (29
 21 U.S.C. 1002(2)) is amended by striking the period at the
 22 end and inserting the following: “, or solely because such
 23 distribution is made to an employee who is serving as a
 24 mentor (as such term is defined in section 72(t)(2)(H) of
 25 the Internal Revenue Code of 1986).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions made in taxable
3 years beginning after December 31, 2015.

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