

115TH CONGRESS
1ST SESSION

S. 1352

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

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2017

Ms. CANTWELL (for herself, Ms. COLLINS, and Ms. KLOBUCHAR) 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 2017”.

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 is an amount equal to—

8 “(A) with respect to each qualified indi-
 9 vidual in a qualified apprenticeship program,
 10 the lesser of—

11 “(i) the amount of any wages (as de-
 12 fined in section 51(c)(1)) paid or incurred
 13 by the employer with respect to such quali-
 14 fied individual during the taxable year, or

15 “(ii) \$5,000, and

16 “(B) with respect to each qualified indi-
 17 vidual in a qualified multi-employer apprentice-
 18 ship program, the lesser of—

19 “(i) an amount equal to the product
 20 of—

21 “(I) the total number of hours of
 22 work performed by such qualified in-
 23 dividual for such employer during
 24 such taxable year, multiplied by

25 “(II) \$3, or

26 “(ii) \$5,000.

1 “(2) ESTABLISHED APPRENTICESHIP PRO-
2 GRAMS.—

3 “(A) IN GENERAL.—The apprenticeship
4 program credit determined under this section
5 for the taxable year shall only be applicable to
6 the number of qualified individuals employed by
7 the employer through a qualified apprenticeship
8 program or a qualified multi-employer appren-
9 ticeship program which are in excess of the ap-
10 prenticeship participation average for such em-
11 ployer (as determined under subparagraph (B)).

12 “(B) APPRENTICESHIP PARTICIPATION AV-
13 ERAGE.—For purposes of subparagraph (A),
14 the apprenticeship participation average shall
15 be equal to the average of the total number of
16 qualified individuals employed by the employer
17 through a qualified apprenticeship program or
18 qualified multi-employer apprenticeship pro-
19 gram for—

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

21 “(ii) the number of taxable years in
22 which the qualified apprenticeship program
23 or the qualified multi-employer apprentice-
24 ship program was in existence, whichever
25 is less.

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

5 “(4) ELECTION NOT TO CLAIM CREDIT.—This
 6 section shall not apply to a taxpayer for any taxable
 7 year if such taxpayer elects to have this section not
 8 apply for such taxable year.

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

13 “(b) QUALIFIED INDIVIDUAL.—

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

18 “(A) is participating in a qualified appren-
 19 ticeship program or a qualified multi-employer
 20 apprenticeship program with an employer that
 21 is subject to the terms of a valid apprenticeship
 22 agreement (as defined in the Act of August 16,
 23 1937 (commonly known as the ‘National Ap-
 24 prenticeship Act’; 50 Stat. 664, chapter 663; 29
 25 U.S.C. 50 et seq.)),

1 “(B) has been employed under a qualified
 2 apprenticeship program or a qualified multi-em-
 3 ployer apprenticeship program for a period of
 4 not less than 7 months that ends within the
 5 taxable year,

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

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

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

20 “(c) QUALIFIED APPRENTICESHIP PROGRAM AND
 21 QUALIFIED MULTI-EMPLOYER APPRENTICESHIP PRO-
 22 GRAM.—

23 “(1) QUALIFIED APPRENTICESHIP PROGRAM.—

24 “(A) IN GENERAL.—For purposes of this
 25 section, the term ‘qualified apprenticeship pro-

1 gram’ means a program registered under the
2 National Apprenticeship Act, whether or not
3 such program is sponsored by an employer,
4 which—

5 “(i) provides qualified individuals with
6 on-the-job training and instruction for a
7 qualified occupation with the employer,

8 “(ii) is registered with the Office of
9 Apprenticeship of the Employment and
10 Training Administration of the Depart-
11 ment of Labor or a State apprenticeship
12 agency recognized by such Office of Ap-
13 prenticeship,

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

18 “(iv) satisfies such other requirements
19 as the Secretary, after consultation with
20 the Secretary of Labor, may prescribe.

21 “(B) QUALIFIED OCCUPATION.—For pur-
22 poses of subparagraph (A)(i), the term ‘quali-
23 fied occupation’ means a skilled trade occupa-
24 tion in a high-demand mechanical, technical,
25 healthcare, or technology field (or such other

1 occupational field as the Secretary, after con-
2 sultation with the Secretary of Labor, may pre-
3 scribe) that satisfies the criteria for an
4 apprenticeable occupation under the National
5 Apprenticeship Act.

6 “(2) QUALIFIED MULTI-EMPLOYER APPREN-
7 TICESHIP PROGRAM.—The term ‘qualified multi-em-
8 ployer apprenticeship program’ means an apprentice-
9 ship program described in paragraph (1) in which
10 multiple employers are required to contribute and
11 that is maintained pursuant to one or more collective
12 bargaining agreements between one or more em-
13 ployee organizations and such employers.

14 “(d) APPRENTICESHIP AGREEMENT.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the term ‘apprenticeship agreement’ means an
17 agreement between a qualified individual and an em-
18 ployer that satisfies the criteria under the National
19 Apprenticeship Act.

20 “(2) CREDIT FOR TRAINING RECEIVED UNDER
21 APPRENTICESHIP AGREEMENT.—If a qualified indi-
22 vidual has received training or instruction through a
23 qualified apprenticeship program or a qualified
24 multi-employer apprenticeship program with an em-
25 ployer which is subsequently unable to satisfy its ob-

1 ligations under the apprenticeship agreement, such
 2 individual may transfer any completed training or
 3 instruction for purposes of satisfying any applicable
 4 training and instruction requirements under a separate
 5 rate apprenticeship agreement with a different employer.
 6 employer.

7 “(e) APPLICATION OF CERTAIN RULES.—For purposes
 8 poses of this section, all persons treated as a single employer
 9 employer under subsection (a) or (b) of section 52, or subsections
 10 (m) or (o) of section 414, shall be treated as a
 11 single person.

12 “(f) REGULATIONS.—The Secretary shall prescribe
 13 such regulations as may be necessary to carry out the provisions
 14 of this section.”.

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

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

23 (c) CLERICAL AMENDMENT.—The table of sections
 24 for subpart D of part IV of subchapter A of chapter 1

1 of the Internal Revenue Code of 1986 is amended by add-
 2 ing at the end the following new item:

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

3 (d) CONFORMING AMENDMENTS.—

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

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

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

21 (1) the extent to which qualified individuals
 22 completed qualified apprenticeship programs and
 23 qualified multi-employer apprenticeship programs;

24 (2) whether qualified individuals remained em-
 25 ployed by an employer that received an apprentice-

1 ship program credit under section 45S of the Inter-
 2 nal Revenue Code of 1986 and the length of such
 3 employment following expiration of the apprentice-
 4 ship period;

5 (3) whether qualified individuals who completed
 6 a qualified apprenticeship program or a qualified
 7 multi-employer apprenticeship program remained
 8 employed in the same occupation or field; and

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

13 (f) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 2017.

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

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

20 (1) in subparagraph (A)—

21 (A) by striking “or” at the end of clause
 22 (vii);

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

1 (C) by adding at the end the following new
2 clause:

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

5 (2) by adding at the end the following new sub-
6 paragraph:

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

10 “(i) has attained 55 years of age,

11 “(ii) is not separated from their em-
12 ployment with a company, corporation, or
13 institution of higher education,

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

23 “(iv) is responsible for the training
24 and education of employees or students in
25 an area of expertise for which the indi-

1 vidual has a professional credential, certifi-
 2 cate, or degree.”.

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

6 “(36) DISTRIBUTIONS DURING WORKING RE-
 7 TIREMENT.—

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

14 “(i) has attained age 62 and who is
 15 not separated from employment at the
 16 time of such distribution, or

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

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

1 “(i) the amount of the distribution
2 that would have been payable to the em-
3 ployee if such employee had separated
4 from employment instead of reducing their
5 hours of employment with their employer
6 and engaging in mentoring activities, in ac-
7 cordance with clauses (iii) and (iv) of sec-
8 tion 72(t)(2)(H), by

9 “(ii) the percentage equal to the
10 quotient obtained by dividing—

11 “(I) the sum of—

12 “(aa) the number of hours
13 per pay period by which the em-
14 ployee’s hours of employment are
15 reduced, and

16 “(bb) the number of hours
17 of employment that such em-
18 ployee is engaging in mentoring
19 activities, by

20 “(II) the total number of hours
21 per pay period worked by the em-
22 ployee before such reduction in hours
23 of employment.”.

24 (c) ERISA.—Subparagraph (A) of section 3(2) of the
25 Employee Retirement Income Security Act of 1974 (29

1 U.S.C. 1002(2)) is amended by striking the period at the
2 end and inserting the following: “, or solely because such
3 distribution is made to an employee who is serving as a
4 mentor (as such term is defined in section 72(t)(2)(H) of
5 the Internal Revenue Code of 1986).”.

6 (d) APPLICATION.—The amendments made by this
7 section shall apply to distributions made in taxable years
8 beginning after December 31, 2017.

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