

#### 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. 458. 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.
  - "(4) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.
  - "(5) LIMITATION.—The apprenticeship program credit under this section shall not be allowed for more than 3 taxable years with respect to any qualified individual.

## "(b) Qualified Individual.—

- "(1) IN GENERAL.—For purposes of this section, the term 'qualified individual' means, with respect to any taxable year, an individual who is an apprentice and—
  - "(A) is participating in a qualified apprenticeship program or a qualified multi-employer apprenticeship program with an employer that is subject to the terms of a valid apprenticeship agreement (as defined in the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 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

occupational field as the Secretary, after consultation with the Secretary of Labor, may prescribe) that satisfies the criteria for an apprenticeable occupation under the National Apprenticeship Act.

"(2) QUALIFIED MULTI-EMPLOYER APPRENTICESHIP PROGRAM.—The term 'qualified multi-employer apprenticeship program' means an apprenticeship program described in paragraph (1) in which multiple employers are required to contribute and that is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and such employers.

### "(d) Apprenticeship Agreement.—

- "(1) IN GENERAL.—For purposes of this section, the term 'apprenticeship agreement' means an agreement between a qualified individual and an employer that satisfies the criteria under the National Apprenticeship Act.
- "(2) CREDIT FOR TRAINING RECEIVED UNDER APPRENTICESHIP AGREEMENT.—If a qualified individual has received training or instruction through a qualified apprenticeship program or a qualified multi-employer apprenticeship program with an employer which is subsequently unable to satisfy its ob-

- 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 sepa-
- 5 rate apprenticeship agreement with a different em-
- 6 ployer.
- 7 "(e) Application of Certain Rules.—For pur-
- 8 poses of this section, all persons treated as a single em-
- 9 ployer under subsection (a) or (b) of section 52, or sub-
- 10 sections (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 pro-
- 14 visions 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 para-
- 18 graph (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
- 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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