

113TH CONGRESS  
2D SESSION

# S. 2792

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

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2014

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

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## 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 2014”.

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 section (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 Act shall apply to taxable years beginning after De-  
10          cember 31, 2014.

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, 2014.

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