

115TH CONGRESS
1ST SESSION

H. R. 3707

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2017

Ms. SÁNCHEZ (for herself, Mr. FITZPATRICK, Mr. LOBIONDO, Mr. THOMPSON of California, and Mr. KILMER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45S. CREDIT FOR APPRENTICESHIP PROGRAM EX-**
4 **PENSES.**

5 “(a) TAX CREDIT.—

6 “(1) IN GENERAL.—For purposes of section 38,
7 in the case of an employer, the apprenticeship pro-
8 gram credit determined under this section for any
9 taxable year is an amount equal to—

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

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

17 “(ii) \$5,000, and

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

21 “(i) an amount equal to the product
22 of—

23 “(I) the total number of hours of
24 work performed by such qualified in-

1 dividual for such employer during
2 such taxable year, multiplied by

3 “(II) \$3, or

4 “(ii) \$5,000.

5 “(2) ESTABLISHED APPRENTICESHIP PRO-
6 GRAMS.—

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

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

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

1 “(ii) the number of taxable years in
2 which the qualified apprenticeship program
3 or the qualified multi-employer apprentice-
4 ship program was in existence, whichever
5 is less.

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

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

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

18 “(b) QUALIFIED INDIVIDUAL.—

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

23 “(A) is participating in a qualified appren-
24 ticeship program or a qualified multi-employer
25 apprenticeship program with an employer that

1 is subject to the terms of a valid apprenticeship
2 agreement (as defined in the Act of August 16,
3 1937 (commonly known as the ‘National Ap-
4 prenticeship Act’; 50 Stat. 664, chapter 663; 29
5 U.S.C. 50 et seq.)),

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

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

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

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

1 “(c) QUALIFIED APPRENTICESHIP PROGRAM AND
2 QUALIFIED MULTI-EMPLOYER APPRENTICESHIP PRO-
3 GRAM.—

4 “(1) QUALIFIED APPRENTICESHIP PROGRAM.—

5 “(A) IN GENERAL.—For purposes of this
6 section, the term ‘qualified apprenticeship pro-
7 gram’ means a program registered under the
8 National Apprenticeship Act, whether or not
9 such program is sponsored by an employer,
10 which—

11 “(i) provides qualified individuals with
12 on-the-job training and instruction for a
13 qualified occupation with the employer,

14 “(ii) is registered with the Office of
15 Apprenticeship of the Employment and
16 Training Administration of the Depart-
17 ment of Labor or a State apprenticeship
18 agency recognized by such Office of Ap-
19 prenticeship,

20 “(iii) maintains records relating to the
21 qualified individual, in such manner as the
22 Secretary, after consultation with the Sec-
23 retary of Labor, may prescribe, and

1 “(iv) satisfies such other requirements
2 as the Secretary, after consultation with
3 the Secretary of Labor, may prescribe.

4 “(B) QUALIFIED OCCUPATION.—For pur-
5 poses of subparagraph (A)(i), the term ‘quali-
6 fied occupation’ means a skilled trade occupa-
7 tion in a high-demand mechanical, technical,
8 healthcare, or technology field (or such other
9 occupational field as the Secretary, after con-
10 sultation with the Secretary of Labor, may pre-
11 scribe) that satisfies the criteria for an
12 apprenticeable occupation under the National
13 Apprenticeship Act.

14 “(2) QUALIFIED MULTI-EMPLOYER APPREN-
15 TICESHIP PROGRAM.—The term ‘qualified multi-em-
16 ployer apprenticeship program’ means an apprentice-
17 ship program described in paragraph (1) in which
18 multiple employers are required to contribute and
19 that is maintained pursuant to one or more collective
20 bargaining agreements between one or more em-
21 ployee organizations and such employers.

22 “(d) APPRENTICESHIP AGREEMENT.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the term ‘apprenticeship agreement’ means an
25 agreement between a qualified individual and an em-

1 ployer that satisfies the criteria under the National
2 Apprenticeship Act.

3 “(2) CREDIT FOR TRAINING RECEIVED UNDER
4 APPRENTICESHIP AGREEMENT.—If a qualified indi-
5 vidual has received training or instruction through a
6 qualified apprenticeship program or a qualified
7 multi-employer apprenticeship program with an em-
8 ployer which is subsequently unable to satisfy its ob-
9 ligations under the apprenticeship agreement, such
10 individual may transfer any completed training or
11 instruction for purposes of satisfying any applicable
12 training and instruction requirements under a sepa-
13 rate apprenticeship agreement with a different em-
14 ployer.

15 “(e) APPLICATION OF CERTAIN RULES.—For pur-
16 poses of this section, all persons treated as a single em-
17 ployer under subsection (a) or (b) of section 52, or sub-
18 section (m) or (o) of section 414, shall be treated as a
19 single person.

20 “(f) REGULATIONS.—The Secretary shall prescribe
21 such regulations as may be necessary to carry out the pro-
22 visions of this section.”.

23 (b) CREDIT TO BE PART OF GENERAL BUSINESS
24 CREDIT.—Section 38(b) of the Internal Revenue Code of
25 1986 is amended by striking “plus” at the end of para-

1 graph (35), by striking the period at the end of paragraph
2 (36) and inserting “, plus”, and by adding at the end the
3 following new paragraph:

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

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

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

10 (d) CONFORMING AMENDMENTS.—

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

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

19 (e) EVALUATION.—Not later than 3 years after the
20 date of the enactment of this Act, and annually thereafter,
21 the Comptroller General of the United States shall submit
22 a report to the Committees on Finance and Health, Edu-
23 cation, Labor, and Pensions of the Senate and the Com-
24 mittees on Ways and Means and Education and the Work-
25 force of the House of Representatives that contains an

1 evaluation of the activities authorized under this Act, in-
2 cluding—

3 (1) the extent to which qualified individuals
4 completed qualified apprenticeship programs and
5 qualified multi-employer apprenticeship programs;

6 (2) whether qualified individuals remained em-
7 ployed by an employer that received an apprentice-
8 ship program credit under section 45S of the Inter-
9 nal Revenue Code of 1986 and the length of such
10 employment following expiration of the apprentice-
11 ship period;

12 (3) whether qualified individuals who completed
13 a qualified apprenticeship program or a qualified
14 multi-employer apprenticeship program remained
15 employed in the same occupation or field; and

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

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

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

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

5 (1) in subparagraph (A)—

6 (A) by striking “or” at the end of clause
7 (vii);

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

10 (C) by adding at the end the following new
11 clause:

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

14 (2) by adding at the end the following new sub-
15 paragraph:

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

19 “(i) has attained 55 years of age,

20 “(ii) is not separated from their em-
21 ployment with a company, corporation, or
22 institution of higher education,

23 “(iii) in accordance with such require-
24 ments and standards as the Secretary de-
25 termines to be necessary, has substantially
26 reduced their hours of employment with

1 their employer, with the individual to be
2 engaged in mentoring activities described
3 in clause (iv) for not less than 20 percent
4 of the hours of employment after such re-
5 duction, and

6 “(iv) is responsible for the training
7 and education of employees or students in
8 an area of expertise for which the indi-
9 vidual has a professional credential, certifi-
10 cate, or degree.”.

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

14 “(36) DISTRIBUTIONS DURING WORKING RE-
15 TIREMENT.—

16 “(A) IN GENERAL.—A trust forming part
17 of a pension plan shall not be treated as failing
18 to constitute a qualified trust under this section
19 solely because the plan provides that a distribu-
20 tion may be made from such trust to an em-
21 ployee who—

22 “(i) has attained age 62 and who is
23 not separated from employment at the
24 time of such distribution, or

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

4 “(B) LIMITATION ON DISTRIBUTIONS TO
5 MENTORS.—For purposes of subparagraph
6 (A)(ii), the amount of the distribution made to
7 an employee who is serving as a mentor shall
8 not be greater than the amount equal to the
9 product obtained by multiplying—

10 “(i) the amount of the distribution
11 that would have been payable to the em-
12 ployee if such employee had separated
13 from employment instead of reducing their
14 hours of employment with their employer
15 and engaging in mentoring activities, in ac-
16 cordance with clauses (iii) and (iv) of sec-
17 tion 72(t)(2)(H), by

18 “(ii) the percentage equal to the
19 quotient obtained by dividing—

20 “(I) the sum of—

21 “(aa) the number of hours
22 per pay period by which the em-
23 ployee’s hours of employment are
24 reduced, and

1 “(bb) the number of hours
2 of employment that such em-
3 ployee is engaging in mentoring
4 activities, by

5 “(II) the total number of hours
6 per pay period worked by the em-
7 ployee before such reduction in hours
8 of employment.”.

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

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

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