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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To provide a payroll tax credit for certain expenses associated with protecting employees from COVID-19.

IN THE HOUSE OF REPRESENTATIVES

Mr. RICE of South Carolina introduced the following bill; which was referred to the Committee on _____

A BILL

To provide a payroll tax credit for certain expenses associated with protecting employees from COVID-19.

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. HEALTHY WORKPLACE TAX CREDIT.**

4 (a) IN GENERAL.—In the case of an employer, there
5 shall be allowed as a credit against applicable employment
6 taxes for each calendar quarter an amount equal to 50
7 percent of the sum of—

1 (1) the qualified employee protection expenses
2 paid or incurred by the employer during such cal-
3 endar quarter,

4 (2) the qualified workplace reconfiguration ex-
5 penses paid or incurred by the employer during such
6 calendar quarter, and

7 (3) the qualified workplace technology expenses
8 paid or incurred by the employer during such cal-
9 endar quarter.

10 (b) LIMITATIONS AND REFUNDABILITY.—

11 (1) OVERALL DOLLAR LIMITATION ON CRED-
12 IT.—

13 (A) IN GENERAL.—The amount of the
14 credit allowed under subsection (a) with respect
15 to any employer for any calendar quarter shall
16 not exceed the excess (if any) of—

17 (i) the applicable dollar limit with re-
18 spect to such employer for such calendar
19 quarter, over

20 (ii) the aggregate credits allowed
21 under subsection (a) with respect to such
22 employer for all preceding calendar quar-
23 ters.

24 (B) APPLICABLE DOLLAR LIMIT.—The
25 term “applicable dollar limit” means, with re-

1 spect to any employer for any calendar quarter,
2 the sum of—

3 (i) \$1,000, multiplied so much of the
4 average number of employees employed by
5 such employer during such calendar quar-
6 ter as does not exceed 500, plus

7 (ii) \$750, multiplied by so much of
8 such average number of employees as ex-
9 ceeds 500 but does not exceed 1,000, plus

10 (iii) \$500, multiplied by so much of
11 such average number of employees as ex-
12 ceeds 1,000.

13 (2) CREDIT LIMITED TO EMPLOYMENT
14 TAXES.—The credit allowed by subsection (a) with
15 respect to any calendar quarter shall not exceed the
16 applicable employment taxes (reduced by any credits
17 allowed under subsections (e) and (f) of section
18 3111 of the Internal Revenue Code of 1986, sections
19 7001 and 7003 of the Families First Coronavirus
20 Response Act, and section 2301 of the CARES Act)
21 on the wages paid with respect to the employment
22 of all the employees of the eligible employer for such
23 calendar quarter.

24 (3) REFUNDABILITY OF EXCESS CREDIT.—

1 (A) IN GENERAL.—If the amount of the
2 credit under subsection (a) exceeds the limita-
3 tion of paragraph (2) for any calendar quarter,
4 such excess shall be treated as an overpayment
5 that shall be refunded under sections 6402(a)
6 and 6413(b) of the Internal Revenue Code of
7 1986.

8 (B) TREATMENT OF PAYMENTS.—For pur-
9 poses of section 1324 of title 31, United States
10 Code, any amounts due to the employer under
11 this paragraph shall be treated in the same
12 manner as a refund due from a credit provision
13 referred to in subsection (b)(2) of such section.

14 (c) QUALIFIED EMPLOYEE PROTECTION EX-
15 PENSES.—For purposes of this section, the term “quali-
16 fied employee protection expenses” means amounts paid
17 or incurred by the employer for—

18 (1) testing employees of the employer for
19 COVID-19 (including on a periodic basis),

20 (2) equipment to protect employees of the em-
21 ployer from contracting COVID-19, including masks,
22 gloves, and disinfectants, and

23 (3) cleaning products or services (whether pro-
24 vided by an employee of the taxpayer or a cleaning

1 service provider) related to preventing the spread of
2 COVID-19.

3 (d) QUALIFIED WORKPLACE RECONFIGURATION EX-
4 PENSES.—For purposes of this section—

5 (1) IN GENERAL.—The term “qualified work-
6 place reconfiguration expenses” means amounts paid
7 or incurred by the employer to design and recon-
8 figure retail space, work areas, break areas, or other
9 areas that employees or customers regularly use in
10 the ordinary course of the employer’s trade or busi-
11 ness if such design and reconfiguration—

12 (A) has a primary purpose of preventing
13 the spread of COVID-19,

14 (B) is with respect to an area that is lo-
15 cated in the United States and that is leased or
16 owned by the employer,

17 (C) is consistent with the purpose of the
18 property immediately before the reconfigura-
19 tion,

20 (D) is commensurate with the risks faced
21 by the employees or customers or is consistent
22 with recommendations made by the Centers for
23 Disease Control and Prevention or the Occupa-
24 tional Safety and Health Administration,

1 (E) is completed pursuant to a reconfig-
2 uration plan and no comparable reconfiguration
3 plan was in place before March 13, 2020, and

4 (F) is completed before January 1, 2021.

5 (2) REGULATIONS.—The Secretary shall pre-
6 scribe such regulations and other guidance as may
7 be necessary or appropriate to carry out the pur-
8 poses of this subsection, including guidance defining
9 primary purpose and reconfiguration plan.

10 (e) QUALIFIED WORKPLACE TECHNOLOGY EX-
11 PENSES.—For purposes of this section—

12 (1) IN GENERAL.—The term “qualified work-
13 place technology expenses” means amounts paid or
14 incurred by the employer for technology systems
15 that employees or customers use in the ordinary
16 course of the employer’s trade or business if such
17 technology system—

18 (A) has a primary purpose of preventing
19 the spread of COVID-19,

20 (B) is used for limiting physical contact
21 between customers and employees in the United
22 States,

23 (C) is commensurate with the risks faced
24 by the employees or customers or is consistent
25 with recommendations made by the Centers for

1 Disease Control and Prevention or the Occupa-
2 tional Safety and Health Administration,

3 (D) is acquired by the taxpayer after
4 March 12, 2020, and is not acquired pursuant
5 to a written binding contract entered into be-
6 fore such date, and

7 (E) is placed in service by the taxpayer be-
8 fore January 1, 2021.

9 (2) TECHNOLOGY SYSTEMS.—The term “tech-
10 nology systems” means computer software (as de-
11 fined in section 167(f)(1)) and qualified techno-
12 logical equipment (as defined in section 168(i)(2)).

13 (3) REGULATIONS.—The Secretary shall pre-
14 scribe such regulations and other guidance as may
15 be necessary or appropriate to carry out the pur-
16 poses of this subsection, including guidance defining
17 primary purpose.

18 (f) OTHER DEFINITIONS.—For purposes of this sec-
19 tion—

20 (1) APPLICABLE EMPLOYMENT TAXES.—The
21 term “applicable employment taxes” means the fol-
22 lowing:

23 (A) The taxes imposed under section
24 3111(a) of the Internal Revenue Code of 1986.

1 (B) So much of the taxes imposed under
2 section 3221(a) of such Code as are attrib-
3 utable to the rate in effect under section
4 3111(a) of such Code.

5 (2) COVID-19.—Except where the context
6 clearly indicates otherwise, any reference in this sec-
7 tion to COVID-19 shall be treated as including a
8 reference to the virus which causes COVID-19.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of the Treasury or the Secretary’s del-
11 egate.

12 (4) OTHER TERMS.—Any term used in this sec-
13 tion (other than subsection (b)(1)(B)) which is also
14 used in chapter 21 or 22 of the Internal Revenue
15 Code of 1986 shall have the same meaning as when
16 used in such chapter.

17 (g) CERTAIN GOVERNMENTAL EMPLOYERS.—This
18 credit shall not apply to the Government of the United
19 States, the government of any State or political subdivi-
20 sion thereof, or any agency or instrumentality of any of
21 the foregoing.

22 (h) SPECIAL RULES.—

23 (1) AGGREGATION RULE.—All persons treated
24 as a single employer under subsection (a) or (b) of
25 section 52 of the Internal Revenue Code of 1986, or

1 subsection (m) or (o) of section 414 of such Code,
2 shall be treated as one employer for purposes of this
3 section.

4 (2) DENIAL OF DOUBLE BENEFIT.—

5 (A) IN GENERAL.—Rules similar to the
6 rules of paragraphs (1) and (2) of section
7 280C(b) shall apply for purposes of this section.

8 (B) EXPENSES NOT TAKEN INTO ACCOUNT
9 MORE THAN ONCE.—Any qualified workplace
10 reconfiguration expense or qualified workplace
11 technology expense shall not be treated as a
12 qualified employee protection expense and any
13 qualified workplace technology expense shall not
14 be treated as a qualified workplace reconfigura-
15 tion expense.

16 (3) THIRD PARTY PAYORS.—Any credit allowed
17 under this section shall be treated as a credit de-
18 scribed in section 3511(d)(2) of such Code.

19 (4) ELECTION NOT TO HAVE SECTION APPLY.—
20 This section shall not apply with respect to any eligi-
21 ble employer for any calendar quarter if such em-
22 ployer elects (at such time and in such manner as
23 the Secretary may prescribe) not to have this section
24 apply.

1 (i) TRANSFERS TO CERTAIN TRUST FUNDS.—There
2 are hereby appropriated to the Federal Old-Age and Sur-
3 vivors Insurance Trust Fund and the Federal Disability
4 Insurance Trust Fund established under section 201 of
5 the Social Security Act (42 U.S.C. 401) and the Social
6 Security Equivalent Benefit Account established under
7 section 15A(a) of the Railroad Retirement Act of 1974
8 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in
9 revenues to the Treasury by reason of this section (without
10 regard to this subsection). Amounts appropriated by the
11 preceding sentence shall be transferred from the general
12 fund at such times and in such manner as to replicate
13 to the extent possible the transfers which would have oc-
14 curred to such Trust Fund or Account had this section
15 not been enacted.

16 (j) TREATMENT OF DEPOSITS.—The Secretary shall
17 waive any penalty under section 6656 of the Internal Rev-
18 enue Code of 1986 for any failure to make a deposit of
19 any applicable employment taxes if the Secretary deter-
20 mines that such failure was due to the reasonable anticipa-
21 tion of the credit allowed under this section.

22 (k) REGULATIONS AND GUIDANCE.—The Secretary
23 shall prescribe such regulations and other guidance as
24 may be necessary or appropriate to carry out the purposes
25 of this section, including—

1 (1) with respect to the application of the credit
2 under subsection (a) to third party payors (including
3 professional employer organizations, certified profes-
4 sional employer organizations, or agents under sec-
5 tion 3504 of the Internal Revenue Code of 1986),
6 regulations or other guidance allowing such payors
7 to submit documentation necessary to substantiate
8 the amount of the credit allowed under subsection
9 (a), and

10 (2) regulations or other guidance to prevent
11 abusive transactions.

12 (1) APPLICATION.—This section shall only apply to
13 amounts paid or incurred after March 12, 2020, and be-
14 fore January 1, 2021.