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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTHY WORKPLACE TAX CREDIT.

(a) In General.—In the case of an employer, there shall be allowed as a credit against applicable employment taxes for each calendar quarter an amount equal to 50 percent of the sum of—
(1) the qualified employee protection expenses paid or incurred by the employer during such calendar quarter, and

(2) the qualified workplace reconfiguration expenses paid or incurred by the employer during such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) OVERALL DOLLAR LIMITATION ON CREDIT.—

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

(i) the applicable dollar limit with respect to such employer for such calendar quarter, over

(ii) the aggregate credits allowed under subsection (a) with respect to such employer for all preceding calendar quarters.

(B) APPLICABLE DOLLAR LIMIT.—The term “applicable dollar limit” means, with respect to any employer for any calendar quarter, the sum of—
(i) \$1,000, multiplied so much of the
average number of full-time employees (as
determined for purposes of determining
whether an employer is an applicable large
employer for purposes of section
4980H(c)(2) of the Internal Revenue Code
of 1986, except that an individual shall not
be taken into account as employee for any
period during which substantially all of the
services provided by such individual as an
employee are provided outside the United
States) employed by such employer during
such calendar quarter as does not exceed
500, plus

(ii) \$750, multiplied by so much of
such average number of full-time employ-
ees as exceeds 500 but does not exceed
1,000, plus

(iii) \$500, multiplied by so much of
such average number of full-time employ-
ees as exceeds 1,000.

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

(3) REFUNDABILITY OF EXCESS CREDIT.—

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

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

(c) QUALIFIED EMPLOYEE PROTECTION EXPENSES.—For purposes of this section, the term “qualified employee protection expenses” means amounts (other
than any qualified workplace reconfiguration expense) paid or incurred by the employer for—

(1) testing employees of the employer for COVID-19 (including on a periodic basis),
(2) equipment to protect employees of the employer from contracting COVID-19, including masks, gloves, and disinfectants, and
(3) cleaning products or services (whether provided by an employee of the taxpayer or a cleaning service provider) related to preventing the spread of COVID-19.

(d) QUALIFIED WORKPLACE RECONFIGURATION EXPENSES.—For purposes of this section—

(1) IN GENERAL.—The term “qualified workplace reconfiguration expenses” means amounts paid or incurred by the employer to design and reconfigure retail space, work areas, break areas, or other areas that employees or customers regularly use in the ordinary course of the employer’s trade or business if such design and reconfiguration—

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

(B) is with respect to an area that is located in the United States and that is leased or owned by the employer,
(C) is consistent with the ordinary use of the property immediately before the reconfiguration,

(D) is commensurate with the risks faced by the employees or customers or is consistent with recommendations made by the Centers for Disease Control and Prevention or the Occupational Safety and Health Administration,

(E) is completed pursuant to a reconfiguration plan and no comparable reconfiguration plan was in place before March 13, 2020, and

(F) is completed before January 1, 2021.

(2) REGULATIONS.—The Secretary shall prescribe such regulations and other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including guidance defining primary purpose and reconfiguration plan.

(e) OTHER DEFINITIONS.—For purposes of this section—

(1) APPLICABLE EMPLOYMENT TAXES.—The term “applicable employment taxes” means the following:

(A) The taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.
(B) So much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(a) of such Code.

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

(3) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

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

(f) CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(g) SPECIAL RULES.—

(1) AGGREGATION RULE.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or
subsection (m) or (o) of section 414 of such Code, shall be treated as one employer for purposes of this section.

(2) **Denial of double benefit.**—Rules similar to the rules of section 280C(a) of the Internal Revenue Code of 1986 shall apply for purposes of this section.

(3) **Third party payors.**—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2) of such Code.

(4) **Election not to have section apply.**—This section shall not apply with respect to any eligible employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary may prescribe) not to have this section apply.

(h) **Transfers to certain trust funds.**—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 14 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section.
(without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

(i) TREATMENT OF DEPOSITS.—The Secretary shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for any failure to make a deposit of any applicable employment taxes if the Secretary determines that such failure was due to the reasonable anticipation of the credit allowed under this section.

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

(1) with respect to the application of the credit under subsection (a) to third party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504 of the Internal Revenue Code of 1986), regulations or other guidance allowing such payors to submit documentation necessary to substantiate the amount of the credit allowed under subsection (a), and
(2) regulations or other guidance to prevent abusive transactions.

(k) APPLICATION.—This section shall only apply to amounts paid or incurred after March 12, 2020, and before January 1, 2021.