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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To provide for a credit against employment taxes for certain virus
transmission prevention expenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PANETTA introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide for a credit against employment taxes for certain
virus transmission prevention expenses, 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 “Safe Reopening Tax
5 Credit Act”.

6 **SEC. 2. TAX CREDIT FOR SAFETY IMPROVEMENTS.**

7 (a) IN GENERAL.—In the case of an eligible em-
8 ployer, there shall be allowed as a credit against applicable

1 employment taxes for each calendar quarter an amount
2 equal to 30 percent of the qualified virus transmission pre-
3 vention expenses paid or incurred by such employer during
4 such calendar quarter.

5 (b) LIMITATIONS AND REFUNDABILITY.—

6 (1) LIMITATION.—The qualified fixed expenses
7 which may be taken into account under subsection
8 (a) by any eligible employer for any calendar quarter
9 shall not exceed the least of—

10 (A) \$15,000, or

11 (B) the greater of—

12 (i) 25 percent of the wages paid with
13 respect to the employment of all employees
14 of the eligible employer for such calendar
15 quarter, or

16 (ii) 6.25 percent of gross receipts of
17 the eligible employer for calendar year
18 2019.

19 (2) CREDIT LIMITED TO CERTAIN EMPLOYMENT
20 TAXES.—The credit allowed by subsection (a) with
21 respect to any calendar quarter shall not exceed the
22 applicable employment taxes for such calendar quar-
23 ter (reduced by any credits allowed under sub-
24 sections (e) and (f) of section 3111 of such Code,
25 sections 7001 and 7003 of the Families First

1 Coronavirus Response Act, and section 2301 of the
2 CARES Act, for such quarter) on the wages paid
3 with respect to the employment of all the employees
4 of the eligible employer for such calendar quarter.

5 (3) REFUNDABILITY OF EXCESS CREDIT.—

6 (A) IN GENERAL.—If the amount of the
7 credit under subsection (a) exceeds the limita-
8 tion of paragraph (2) for any calendar quarter,
9 such excess shall be treated as an overpayment
10 that shall be refunded under sections 6402(a)
11 and 6413(b) of the Internal Revenue Code of
12 1986.

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

19 (c) DEFINITIONS.—For purposes of this section—

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) ELIGIBLE EMPLOYER.—

6 (A) IN GENERAL.—The term “eligible em-
7 ployer” means any employer—

8 (i) which was carrying on a trade or
9 business at any time during calendar year
10 2020,

11 (ii) which had either—

12 (I) not more than 1,500 full time
13 equivalent employees (as determined
14 for the purposes of determining
15 whether an employer is an applicable
16 large employer for the purposes of
17 section 4980H(c)(2) of the Internal
18 Revenue Code of 1986) for calendar
19 year 2019, or

20 (II) not more than \$41,500,000
21 in gross receipts in the last taxable
22 year ending in 2019, and

23 (iii) is primarily an establishment
24 classified under one of the following:

1 (I) The North American Industry
2 Classification System Sector codes 44,
3 45, 71, or 72.

4 (II) The North American Indus-
5 try Classification System Subsector
6 code 624.

7 (III) The North American Indus-
8 try Classification System codes
9 512131 or 519120.

10 (B) TAX-EXEMPT ORGANIZATIONS.—In the
11 case of an organization which is described in
12 section 501(c) of the Internal Revenue Code of
13 1986 and exempt from tax under section 501(a)
14 of such Code—

15 (i) clauses (i) and (iii)(I) of subpara-
16 graph (A) shall apply to all operations of
17 such organization, and

18 (ii) any reference in this section to
19 gross receipts shall be treated as a ref-
20 erence to gross receipts within the meaning
21 of section 6033 of the Internal Revenue
22 Code of 1986.

23 (3) QUALIFIED VIRUS TRANSMISSION PREVEN-
24 TION EXPENSES.—The term “qualified virus trans-
25 mission prevention expenses” means the payment or

1 accrual of any expense which is intended to reduce
2 or prevent the transmission of communicable viruses
3 (including Severe Acute Respiratory Syndrome
4 Coronavirus 2 (SARS-CoV-2)), which is used in the
5 operation of a trade or business in the United States
6 (including the possessions of the United States), in-
7 cluding—

8 (A) barriers erected to prevent virus
9 spread between customers and employees, in-
10 cluding plexiglass installed at cashiers and
11 other counters, and partitions to separate cus-
12 tomers,

13 (B) changes to fixtures to facilitate social
14 distancing, including additional check-out sta-
15 tions,

16 (C) contactless point-of-sale systems,

17 (D) enhanced sanitation, including deep
18 cleaning and hand sanitizer,

19 (E) thermometers and other virus moni-
20 toring devices or methods, including COVID-19
21 testing,

22 (F) ventilation or air filtration,

23 (G) signage related to public health aware-
24 ness, social distancing, or altered services such
25 as curbside pickups,

1 (H) employee health education,
2 (I) training for new business procedures
3 resulting from COVID–19,
4 (J) personal protective equipment, and
5 (K) such additional expenses as the Sec-
6 retary, in consultation with the Secretary of
7 Health and Human Services, determines to be
8 necessary.

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

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

17 (e) DENIAL OF DOUBLE BENEFIT.—For purposes of
18 chapter 1 of such Code, the gross income of any eligible
19 employer, for the taxable year which includes the last day
20 of any calendar quarter with respect to which a credit is
21 allowed under this section, shall be increased by the
22 amount of such credit.

23 (f) ELECTION NOT TO HAVE SECTION APPLY.—This
24 section shall not apply with respect to any eligible em-
25 ployer for any calendar quarter if such employer elects (at

1 such time and in such manner as the Secretary may pre-
2 scribe) not to have this section apply.

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

18 (h) TREATMENT OF DEPOSITS.—The Secretary shall
19 waive any penalty under section 6656 of such Code for
20 any failure to make a deposit of applicable employment
21 taxes if the Secretary determines that such failure was due
22 to the anticipation of the credit allowed under this section.

23 (i) REGULATIONS AND GUIDANCE.—The Secretary
24 shall issue such forms, instructions, regulations, and guid-
25 ance as are necessary—

1 (1) to allow the advance payment of the credit
2 under subsection (a), subject to the limitations pro-
3 vided in this section, based on such information as
4 the Secretary shall require,

5 (2) to provide for the reconciliation of such ad-
6 vance payment with the amount of the credit at the
7 time of filing the return of tax for the applicable
8 quarter or taxable year,

9 (3) with respect to the application of the credit
10 under subsection (a) to third-party payors (including
11 professional employer organizations, certified profes-
12 sional employer organizations, or agents under sec-
13 tion 3504 of the Internal Revenue Code of 1986),
14 including regulations or guidance allowing such
15 payors to submit documentation necessary to sub-
16 stantiate the eligible employer status of employers
17 that use such payors,

18 (4) for application of subsection (c)(2)(A)(ii) in
19 the case of any employer which was not carrying on
20 a trade or business for all or part of the same cal-
21 endar quarter in the prior year, and

22 (5) for recapturing the benefit of credits deter-
23 mined under this section in cases where there is a
24 subsequent adjustment to the credit determined
25 under subsection (a).

1 (j) APPLICATION OF SECTION.—This section shall
2 apply only to qualified fixed expenses paid or accrued in
3 calendar quarters beginning on or after the date of the
4 enactment of this Act and before January 1, 2021.