To amend the Internal Revenue Code of 1986 to provide a tax credit to employers for the costs of implementing wellness programs, and for other purposes.

A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit to employers for the costs of implementing wellness programs, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Healthy Workforce Act of 2007”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) The United States has more than 12 million employers and approximately 135 million working adults.

(2) The use of effective worksite policies and programs can reduce health risks and improve the quality of life for the 135 million full-time and part-time workers in the United States.

(3) Workers spend more than one-third of their day on the job and, as a result, employers are in a unique position to promote the health and safety of their employees.

(4) Chronic diseases such as heart disease, stroke, cancer, obesity, and diabetes are among the most prevalent and costly worker health problems for most employers.

(5) The use by employers of effective worksite policies and programs can reduce health risks and improve the quality of life for their employees.

(6) The good health of workers is good for business because healthier workers miss less work, are more productive, and have lower health care costs.

SEC. 3. TAX CREDIT TO EMPLOYERS FOR COSTS OF IMPLEMENTING WELLNESS PROGRAMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of
1986 (relating to business related credits) is amended by adding at the end the following:

“SEC. 45O. WELLNESS PROGRAM CREDIT.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, the wellness program credit determined under this section for any taxable year during the credit period with respect to an employer is an amount equal to 50 percent of the costs paid or incurred by the employer in connection with a qualified wellness program during the taxable year.

“(2) LIMITATION.—The amount of credit allowed under paragraph (1) for any taxable year shall not exceed the sum of—

“(A) the product of $200 and the number of employees of the employer not in excess of 200 employees, plus

“(B) the product of $100 and the number of employees of the employer in excess of 200 employees.

“(b) QUALIFIED WELLNESS PROGRAM.—For purposes of this section—

“(1) QUALIFIED WELLNESS PROGRAM.—The term ‘qualified wellness program’ means a program which—
“(A) consists of any 3 of the wellness program components described in subsection (e), and

“(B) which is certified by the Secretary of Health and Human Services, in coordination with the Director of the Center for Disease Control and Prevention, as a qualified wellness program under this section.

“(2) Programs must be consistent with research and best practices.—

“(A) In general.—The Secretary of Health and Human Services shall not certify a program as a qualified wellness program unless the program—

“(i) is consistent with evidence-based research and best practices, as identified by persons with expertise in employer health promotion and wellness programs,

“(ii) includes multiple, evidence-based strategies which are based on the existing and emerging research and careful scientific reviews, including the Guide to Community Preventive Services, the Guide to Clinical Preventive Services, and the
National Registry for Effective Programs,

and

“(iii) includes strategies which focus

on employee populations with a dispropor-

tionate burden of health problems.

“(B) PERIODIC UPDATING AND REVIEW.—

The Secretary of Health and Human Services

shall establish procedures for periodic review of

programs under this subsection. Such proce-

dures shall require revisions of programs if nec-

essary to ensure compliance with the require-

ments of this section and require updating of

the programs to the extent the Secretary, in co-

ordination with the Director of the Centers for

Disease Control and Prevention, determines

necessary to reflect new scientific findings.

“(3) HEALTH LITERACY.—The Secretary of

Health and Human Services shall, as part of the

certification process, encourage employees to make

the programs culturally competent and to meet the

health literacy needs of the employees covered by the

programs.

“(e) WELLNESS PROGRAM COMPONENTS.—For pur-

poses of this section, the wellness program components de-

scribed in this subsection are the following:
“(1) **Health Awareness Component.**—A health awareness component which provides for the following:

“(A) **Health Education.**—The dissemination of health information which addresses the specific needs and health risks of employees.

“(B) **Health Screenings.**—The opportunity for periodic screenings for health problems and referrals for appropriate follow up measures.

“(2) **Employee Engagement Component.**—An employee engagement component which provides for—

“(A) the establishment of a committee to actively engage employees in worksite wellness programs through worksite assessments and program planning, delivery, evaluation, and improvement efforts, and

“(B) the tracking of employee participation.

“(3) **Behavioral Change Component.**—A behavioral change component which provides for altering employee lifestyles to encourage healthy living through counseling, seminars, on-line programs, or self-help materials which provide technical assistance.
and problem solving skills. Such component may include programs relating to—

“(A) tobacco use,

“(B) obesity,

“(C) stress management,

“(D) physical fitness,

“(E) nutrition,

“(F) substance abuse,

“(G) depression, and

“(H) mental health promotion (including anxiety).

“(4) SUPPORTIVE ENVIRONMENT COMPONENT.—A supportive environment component which includes the following:

“(A) ON-SITE POLICIES.—Policies and services at the worksite which promote a healthy lifestyle, including policies relating to—

“(i) tobacco use at the worksite,

“(ii) the nutrition of food available at the worksite through cafeterias and vending options,

“(iii) minimizing stress and promoting positive mental health in the workplace,

“(iv) where applicable, accessible and attractive stairs, and
“(v) the encouragement of physical
activity before, during, and after work
hours.

“(B) Participation incentives.—

“(i) In general.—Qualified incentive
benefits for each employee who participates
in the health screenings described in para-
graph (1)(B) or the behavioral change pro-
grams described in paragraph (3).

“(ii) Qualified incentive benefit.—For purposes of clause (i), the
term ‘qualified incentive benefit’ means
any benefit which is approved by the Sec-
retary of Health and Human Services, in
coordination with the Director of the Cen-
ters for Disease Control and Prevention.
Such benefit may include an adjustment in
health insurance premiums or co-pays.

“(C) Employee input.—The opportunity
for employees to participate in the management
of any qualified wellness program to which this
section applies.

“(d) Participation requirement.—

“(1) In general.—No credit shall be allowed
under subsection (a) unless the Secretary of Health
and Human Services, in coordination with the Director of the Centers for Disease Control and Prevention, certifies, as a part of any certification described in subsection (b), that each wellness program component of the qualified wellness program applies to all qualified employees of the employer. The Secretary of Health and Human Services shall prescribe rules under which an employer shall not be treated as failing to meet the requirements of this subsection merely because the employer provides specialized programs for employees with specific health needs or unusual employment requirements or provides a pilot program to test new wellness strategies.

“(2) QUALIFIED EMPLOYEE.—For purposes of paragraph (1), the term ‘qualified employee’ means an employee who works an average of not less than 25 hours per week during the taxable year.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) EMPLOYEE AND EMPLOYER.—

“(A) PARTNERS AND PARTNERSHIPS.—

The term ‘employee’ includes a partner and the term ‘employer’ includes a partnership.

“(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.
“(2) Certain costs not included.—Costs paid or incurred by an employer for food or health insurance shall not be taken into account under subsection (a).

“(3) No credit where grant awarded.—No credit shall be allowable under subsection (a) with respect to any qualified wellness program of any taxpayer (other than an eligible employer described in subsection (f)(2)(A)) who receives a grant provided by the United States, a State, or a political subdivision of a State for use in connection with such program. The Secretary shall prescribe rules providing for the waiver of this paragraph with respect to any grant which does not constitute a significant portion of the funding for the qualified wellness program.

“(4) Credit period.—

“(A) In general.—The term ‘credit period’ means the period of 10 consecutive taxable years beginning with the taxable year in which the qualified wellness program is first certified under this section.

“(B) Special rule for existing programs.—In the case of an employer (or predecessor) which operates a wellness program for
its employees on the date of the enactment of this section, subparagraph (A) shall be applied by substituting ‘3 consecutive taxable years’ for ‘10 consecutive taxable years’. The Secretary shall prescribe rules under which this subsection shall not apply if an employer is required to make substantial modifications in the existing wellness program in order to qualify such program for certification as a qualified wellness program.

“(C) **CONTROLLED GROUPS.**—For purposes of this paragraph, all persons treated as a single employer under subsection (b), (e), (m), or (o) of section 414 shall be treated as a single employer.

“(f) **PORTION OF CREDIT MADE REFUNDABLE.**—

“(1) **IN GENERAL.**—In the case of an eligible employer of an employee, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or
“(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

“(2) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term ‘eligible employer’ means an employer which is—

“(A) a State or political subdivision thereof, the District of Columbia, a possession of the United States, or an agency or instrumentality of any of the foregoing, or

“(B) any organization described in section 501(c) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.
“(3) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘employer payroll taxes’ means the taxes imposed by—

“(i) section 3111(b), and

“(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

“(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

“(g) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2017.”.

(b) TREATMENT AS GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking “plus” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, plus”, and by adding at the end the following:

“(32) the wellness program credit determined under section 45O.”.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of the Internal Revenue Code of 1986 (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:
“(f) WELLNESS PROGRAM CREDIT.—

“(1) IN GENERAL.—No deduction shall be allowed for that portion of the costs paid or incurred for a qualified wellness program (within the meaning of section 45O) allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 45O.

“(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

“(A) the amount of the credit determined for the taxable year under section 45O, exceeds

“(B) the amount allowable as a deduction for such taxable year for a qualified wellness program,

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

“(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules
applicable under subparagraphs (A) and (B) of section 41(f)(1).

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45O. Wellness program credit."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(f) OUTREACH.—

(1) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Director of the Centers for Disease Control and members of the business community, shall institute an outreach program to inform businesses about the availability of the wellness program credit under section 45O of the Internal Revenue Code of 1986 as well as to educate businesses on how to develop programs according to recognized and promising practices and on how to measure the success of implemented programs.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the outreach program described in paragraph (1).