

116TH CONGRESS  
2D SESSION

# S. 4173

To amend the Internal Revenue Code of 1986 to provide a credit to small employers for covering military spouses under retirement plans.

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IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Ms. COLLINS (for herself and Ms. HASSAN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit to small employers for covering military spouses under retirement plans.

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 “Military Spouses Re-  
5 tirement Security Act”.

6 **SEC. 2. CREDIT FOR SMALL EMPLOYERS PROVIDING RE-**  
7 **TIREMENT PLANS FOR MILITARY SPOUSES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-  
9 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. 45U. SMALL EMPLOYER PROVISION OF RETIREMENT**  
4 **SAVINGS FOR MILITARY SPOUSES.**

5 “(a) IN GENERAL.—For purposes of section 38, in  
6 the case of a covered small employer, the military spouse  
7 employee retirement plan credit determined under this  
8 section for the taxable year is an amount equal to the sum  
9 of—

10 “(1) \$200 for each eligible military spouse em-  
11 ployee who is eligible to participate in an eligible em-  
12 ployer plan during the plan year ending with or  
13 within such taxable year, plus

14 “(2) with respect to each eligible military  
15 spouse employee participating in such plan, the less-  
16 er of—

17 “(A) the amount of employer contributions  
18 (other than any contribution described in sub-  
19 paragraph (B) or (C) of section 25B(d)(1)  
20 made under all eligible employer plans on behalf  
21 of such eligible military spouse during the plan  
22 year ending with or within such taxable year, or

23 “(B) \$300.

24 In the case of a defined benefit plan, the amount  
25 treated as an employer contribution under para-

1 graph (2)(A) shall be the increase in the partici-  
2 pant’s nonforfeitable accrued benefit (determined by  
3 using the rules of section 417(e)(3)) reduced by the  
4 amount of such increase attributable to employee  
5 contributions.

6 “(b) ELIGIBLE EMPLOYER PLAN.—For purposes of  
7 this section, the term ‘eligible employer plan’ means a  
8 qualified employer plan (within the meaning of section  
9 4972(d)) in which all eligible military spouse employees  
10 of the covered small employer—

11 “(1) are eligible to participate as of the later of  
12 the first day of the first plan year of the plan or the  
13 date the employee has been employed for at least 2  
14 months,

15 “(2) are eligible to receive matching contribu-  
16 tions (as defined in section 401(m)) and nonelective  
17 contributions in the same manner as an employee  
18 (other than a highly compensated employee) with at  
19 least 2 years of service, and

20 “(3) are fully vested in their accrued benefit  
21 under the plan upon commencement of participation.

22 “(c) COVERED SMALL EMPLOYER.—For purposes of  
23 this section, the term ‘covered small employer’ means an  
24 eligible employer (within the meaning of section  
25 408(p)(2)(C)(i)).

1 “(d) ELIGIBLE MILITARY SPOUSE EMPLOYEE.—

2 “(1) IN GENERAL.—The term ‘eligible military  
3 spouse employee’ means any employee of the covered  
4 small employer who—

5 “(A) has been employed by the employer  
6 for more than 2 months,

7 “(B) is not a highly compensated employee  
8 (within the meaning of section 414(q)), and

9 “(C) makes a certification to the small em-  
10 ployer that, as of the date such employee is  
11 hired by the employer, such employee is mar-  
12 ried to an individual who has performed service  
13 in the uniformed services (as defined in chapter  
14 43 of title 38, United States Code) while on ac-  
15 tive duty for a period of more than 30 days (in-  
16 cluding the date such employee is hired).

17 Any certification under subparagraph (C) shall in-  
18 clude the servicemember’s name, rank, and military  
19 branch and the employee’s uniformed services identi-  
20 fication card number.

21 “(2) LIMITATION.—An individual may not be  
22 treated as an eligible military spouse with respect to  
23 any covered small employer for more than 3 taxable  
24 years.”.

1 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
2 CREDIT.—Section 38(b) of the Internal Revenue Code of  
3 1986 is amended by striking “plus” at the end of para-  
4 graph (32), by striking the period at the end of paragraph  
5 (33) and inserting “, plus”, and by adding at the end the  
6 following new paragraph:

7 “(34) the military spouse employee retirement  
8 plan credit determined under section 45U(a).”.

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

“Sec. 45U. Small employer provision of retirement savings for military  
spouses.”.

13 (d) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 the date of the enactment of this Act.

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