

111TH CONGRESS  
1ST SESSION

# H. R. 775

To repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan to offset the receipt of veterans dependency and indemnity compensation.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mr. ORTIZ (for himself, Mr. WILSON of South Carolina, Ms. BORDALLO, Mr. EDWARDS of Texas, Mr. BROWN of South Carolina, Mr. JONES, Ms. BERKLEY, Mr. HOLT, Ms. CORRINE BROWN of Florida, Mr. MORAN of Virginia, Mr. KENNEDY, Mr. HINOJOSA, Mr. SMITH of Washington, Mr. PASTOR of Arizona, Mr. HONDA, Mr. REYES, Mr. LARSEN of Washington, Mr. ROGERS of Alabama, Mr. BOUCHER, Ms. KAPTUR, Mr. ROHRBACHER, Mr. CALVERT, Mr. GALLEGLY, Mr. BACHUS, Mr. FILNER, Mr. WALZ, Mr. RODRIGUEZ, Mr. GONZALEZ, Mr. CARNEY, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. TAYLOR, Mr. MARSHALL, Ms. ROS-LEHTINEN, Mrs. MALONEY, Mr. YOUNG of Alaska, Ms. WOOLSEY, Mrs. McMORRIS RODGERS, Mr. BARTLETT, Mr. WOLF, Mr. SESTAK, Mr. SMITH of New Jersey, Mr. COURTNEY, Mr. BOOZMAN, Mr. CONNOLLY of Virginia, Mr. LOEBSACK, Mr. BOSWELL, Ms. SHEA-PORTER, Mrs. TAUSCHER, Mr. WITTMAN, Mr. BUCHANAN, Mr. PERRIELLO, Mr. COHEN, Mr. BRADY of Pennsylvania, Mr. WAXMAN, Mr. HOLDEN, Ms. ROYBAL-ALLARD, Mr. MOORE of Kansas, Mr. BERMAN, Mr. HINCHEY, Mr. ISRAEL, Mr. NUNES, Mr. GOHMERT, Mr. WILSON of Ohio, Mr. GRIJALVA, Mr. CARTER, Mr. JOHNSON of Georgia, Mr. KLEIN of Florida, Mr. MCNERNEY, Mr. NYE, Mr. KAGEN, Ms. KILPATRICK of Michigan, Mr. MCINTYRE, Mr. MILLER of Florida, Mr. LANGEVIN, Ms. SCHWARTZ, Mrs. BLACKBURN, Mr. KILDEE, Mr. WU, Mr. MASSA, Mr. PLATTS, Mr. KINGSTON, Ms. NORTON, Mr. SCOTT of Virginia, Ms. FOXX, Mr. SCALISE, Ms. DELAURO, Mr. CUMMINGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TIM MURPHY of Pennsylvania, Mr. GENE GREEN of Texas, Mr. MURPHY of Connecticut, Mr. ROONEY, Mr. BRIGHT, Mr. CONAWAY, Mr. PUTNAM, Mr. LATOURETTE, Mr. FALEOMAVAEGA, Mr. BRALEY of Iowa, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Armed Services

# A BILL

To repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan to offset the receipt of veterans dependency and indemnity compensation.

*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 “Military Surviving Spouses Equity Act”.

## SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—

(1) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3)

and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

1 (i) by striking subsection (e); and

2 (ii) by striking subsection (k).

3 (B) In section 1451(g)(1), by striking sub-  
4 paragraph (C).

5 (C) In section 1452—

6 (i) in subsection (f)(2), by striking  
7 “does not apply—” and all that follows  
8 and inserting “does not apply in the case  
9 of a deduction made through administra-  
10 tive error.”; and

11 (ii) by striking subsection (g).

12 (D) In section 1455(c), by striking “,  
13 1450(k)(2),”.

14 (b) PROHIBITION ON RETROACTIVE BENEFITS.—No  
15 benefits may be paid to any person for any period before  
16 the effective date provided under subsection (f) by reason  
17 of the amendments made by subsection (a).

18 (c) PROHIBITION ON RECOUPMENT OF CERTAIN  
19 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-  
20 ENTS.—A surviving spouse who is or has been in receipt  
21 of an annuity under the Survivor Benefit Plan under sub-  
22 chapter II of chapter 73 of title 10, United States Code,  
23 that is in effect before the effective date provided under  
24 subsection (f) and that is adjusted by reason of the  
25 amendments made by subsection (a) and who has received

1 a refund of retired pay under section 1450(e) of title 10,  
2 United States Code, shall not be required to repay such  
3 refund to the United States.

4 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY  
5 FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of  
6 such title is amended—

7 (1) by striking “DEPENDENT CHILDREN.—”  
8 and all that follows through “In the case of a mem-  
9 ber described in paragraph (1),” and inserting “DE-  
10 PENDENT CHILDREN.—In the case of a member de-  
11 scribed in paragraph (1),”; and

12 (2) by striking subparagraph (B).

13 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY  
14 ELIGIBLE SPOUSES.—The Secretary of the military de-  
15 partment concerned shall restore annuity eligibility to any  
16 eligible surviving spouse who, in consultation with the Sec-  
17 retary, previously elected to transfer payment of such an-  
18 nuity to a surviving child or children under the provisions  
19 of section 1448(d)(2)(B) of title 10, United States Code,  
20 as in effect on the day before the effective date provided  
21 under subsection (f). Such eligibility shall be restored  
22 whether or not payment to such child or children subse-  
23 quently was terminated due to loss of dependent status  
24 or death. For the purposes of this subsection, an eligible  
25 spouse includes a spouse who was previously eligible for

1 payment of such annuity and is not remarried, or remar-  
2 ried after having attained age 55, or whose second or sub-  
3 sequent marriage has been terminated by death, divorce  
4 or annulment.

5 (f) EFFECTIVE DATE.—The sections and the amend-  
6 ments made by this section shall take effect on the later  
7 of—

8 (1) the first day of the first month that begins  
9 after the date of the enactment of this Act; or

10 (2) the first day of the fiscal year that begins  
11 in the calendar year in which this Act is enacted.

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