

111TH CONGRESS  
1ST SESSION

# S. 535

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2009

Mr. NELSON of Florida (for himself, Mr. SESSIONS, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. KERRY, Mrs. LINCOLN, Ms. MIKULSKI, Ms. SNOWE, Mr. VITTER, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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# A BILL

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, 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. REPEAL OF REQUIREMENT OF REDUCTION OF**  
4                   **SBP SURVIVOR ANNUITIES BY DEPENDENCY**  
5                   **AND INDEMNITY COMPENSATION.**  
6       (a) REPEAL.—

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

6 (B) In section 1451(c)—

7 (i) by striking paragraph (2); and

8 (ii) by redesignating paragraphs (3)  
9 and (4) as paragraphs (2) and (3), respec-  
10 tively.

13 (A) In section 1450—

14 (i) by striking subsection (e);

15 (ii) by striking subsection (k); and

16 (iii) by striking subsection (m).

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

19 (C) In section 1452—

20 (i) in subsection (f)(2), by striking  
21 “does not apply—” and all that follows  
22 and inserting “does not apply in the case  
23 of a deduction made through administra-  
24 tive error.”; and

25 (ii) by striking subsection (g).

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

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

7 (c) PROHIBITION ON RECOUPMENT OF CERTAIN  
8 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-  
9 ENTS.—A surviving spouse who is or has been in receipt  
10 of an annuity under the Survivor Benefit Plan under sub-  
11 chapter II of chapter 73 of title 10, United States Code,  
12 that is in effect before the effective date provided under  
13 subsection (f) and that is adjusted by reason of the  
14 amendments made by subsection (a) and who has received  
15 a refund of retired pay under section 1450(e) of title 10,  
16 United States Code, shall not be required to repay such  
17 refund to the United States.

18 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY  
19 FOR DEPENDENT CHILDREN.—Section 1448(d) of such  
20 title is amended—

25 (2) in paragraph (2)—

1 (A) by striking “DEPENDENT CHILDREN.—” and all that follows through “In the  
2 case of a member described in paragraph (1),”  
3 and inserting “DEPENDENT CHILDREN ANNU-  
4 ITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—  
5 In the case of a member described in paragraph  
6 (1),”; and  
7  
8 (B) by striking subparagraph (B).

(e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES.—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

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