

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.—

1           (1) IN GENERAL.—Subchapter II of chapter 73  
 2           of title 10, United States Code, is amended as fol-  
 3           lows:

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.

11           (2) CONFORMING AMENDMENTS.—Such sub-  
 12           chapter is further amended as follows:

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—

21 (1) in paragraph (1), by striking “Except as  
22 provided in paragraph (2)(B), the Secretary con-  
23 cerned” and inserting “The Secretary concerned”;  
24 and

25 (2) in paragraph (2)—

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

8 (B) by striking subparagraph (B).

9 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY  
10 ELIGIBLE SPOUSES.—The Secretary of the military de-  
11 partment concerned shall restore annuity eligibility to any  
12 eligible surviving spouse who, in consultation with the Sec-  
13 retary, previously elected to transfer payment of such an-  
14 nuity to a surviving child or children under the provisions  
15 of section 1448(d)(2)(B) of title 10, United States Code,  
16 as in effect on the day before the effective date provided  
17 under subsection (f). Such eligibility shall be restored  
18 whether or not payment to such child or children subse-  
19 quently was terminated due to loss of dependent status  
20 or death. For the purposes of this subsection, an eligible  
21 spouse includes a spouse who was previously eligible for  
22 payment of such annuity and is not remarried, or remar-  
23 ried after having attained age 55, or whose second or sub-  
24 sequent marriage has been terminated by death, divorce  
25 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—

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

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

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