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.

IN THE SENATE OF THE UNITED STATES

February 28, 2019

Mr. Jones (for himself, Ms. Collins, Mr. Coons, Ms. Warren, Mr. Wyden, Mr. Inhofe, Mr. Merkley, Mr. Casey, Mr. Crafo, Mr. Tester, Ms. Harris, Mr. Hoeven, Mrs. Murray, Mr. Leahy, Mrs. Hyde-Smith, Ms. Duckworth, Ms. Baldwin, Ms. Klobuchar, Mr. Van Hollen, Ms. Stabenow, Mr. Markey, Mr. Menendez, Mr. Boozman, Mr. Cramer, Mr. Bennet, Mr. Rubio, Mr. Risch, Mrs. Blackburn, and Mr. Manchin) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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.

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 Widow’s Tax Elimination Act of 2019”.
SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SURVIVOR BENEFITS PLAN SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—

(1) IN GENERAL.—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—

(i) by striking subsection (e);

(ii) by striking subsection (k); and

(iii) by striking subsection (m).

(B) In section 1451(g)(1), by striking subparagraph (C).

(C) In section 1452—

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

(ii) by striking subsection (g).

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

(b) Prohibition on Retroactive Benefits.—No benefits may be paid to any person for any period before the effective date provided under subsection (f) by reason of the amendments made by subsection (a).

c) Prohibition on Recoupment of Certain Amounts Previously Refunded to SBP Recipients.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under sub-
chapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

d) Repeal of Authority for Optional Annuity for Dependent Children.—Section 1448(d) of such title is amended—
(1) in paragraph (1), by striking “Except as provided in paragraph (2)(B), the Secretary concerned” and inserting “The Secretary concerned”; and

(2) in paragraph (2)—

(A) by striking “DEPENDENT CHILDREN.—” and all that follows through “In the case of a member described in paragraph (1),” and inserting “DEPENDENT CHILDREN ANNUITY WHEN NO ELIGIBLE SURVIVING SPOUSE.— In the case of a member described in paragraph (1)”; and

(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.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the later of—

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

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