SEC. 625. AUTHORITY TO DEDUCT SURVIVOR BENEFIT PLAN PREMIUMS FROM COMBAT-RELATED SPECIAL COMPENSATION WHEN RETIRED PAY NOT SUFFICIENT.

(a) AUTHORITY.—Subsection (d) of section 1452 of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) DEDUCTION FROM COMBAT-RELATED SPECIAL COMPENSATION WHEN RETIRED PAY NOT ADEQUATE.— In the case of a person who has elected to participate in the Plan and who has been awarded both retired pay and combat-related special compensation under section 1413a of this title, if a deduction from the person's retired pay for any period cannot be made in the full amount required, there shall be deducted from the person's combat-related special compensation the amount that would otherwise have been deducted from the person's retired pay for that period.".

(b) CONFORMING AMENDMENTS TO SECTION 1452.—

(1) Subsection (d) of such section is further amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except to the extent that the required deduction is made pursuant to paragraph (2)";

(B) in paragraph (3), as redesignated by subsection (a)(1), by striking "Paragraph (1) does not" and inserting "Paragraphs (1) and (2) do not"; and

(C) in the heading of such subsection, by inserting "OR NOT SUFFICIENT" after "NOT PAID".

(2) Subsection (f)(1)of such section is amended by inserting "or combat-related special compensation" after "from retired pay".

(3) Subsection (g)(4) of such section is amended—

(A) by inserting "OR CRSC" in the paragraph heading after "RETIRED PAY"; and

(B) by inserting "or combat-related special compensation" after "from the retired pay".

(c) CONFORMING AMEDMENTS TO OTHER PROVISIONS OF SBP STATUTE.—

(1) Section 1449(b)(2) of such title is amended—

(A) by inserting "OR CRSC" in the paragraph heading after "RETIRED PAY"; and

(B) by inserting "or combat-related special compensation" after "from retired pay".

(2) Section 1450(e) of such title is amended—

(A) in the subsection heading, by inserting "OR CRSC" after "RETIRED PAY"; and

(B) in paragraphs (1) and (2), by inserting "or combat-related special compensation" after "from the retired pay".

[PLS NOTE: THE CHANGES TO EXISTING LAW SECTION BELOW SETS OUT IN RED-LINE FORM HOW THE LEGISLATIVE TEXT ABOVE WOULD AMEND EXISTING LAW]

Section-by-Section Analysis

This proposal would amend 10 U.S.C. 1452(d) by inserting a new paragraph (2) allowing a deduction of Survivor Benefit Plan (SBP) premiums from monthly combat related special compensation (CRSC). There is a conforming amendment to reflect that paragraph (1) and

newly created paragraph (2) do not apply to the situation described in paragraph (3) (current paragraph (2)).

The Defense Finance and Accounting Service (DFAS) issues payments for both retired pay and combat-related special compensation (CRSC) (10 U.S.C. 1413a). Under SBP law, only a member's retired pay may be reduced for payment of the SBP premiums. In the event that the amount of the required premium deductions exceeds the amount of retired pay available to be reduced, there is no statutory authority to reduce the combat-related special compensation. This is because under 10 U.S.C. 1413a, CRSC is not "retired pay". See 10 U.S.C. 1413a (g). Thus, even though the member is being paid by DFAS, SBP premiums cannot be withheld from the CRSC. Instead, DFAS must pay the full amount of CRSC to the member, and the member must then remit the SBP premium payment separately back to DFAS.

The amendment made by this proposal would allow for the deduction of SBP premiums from CRSC when the member is in receipt of both retired pay and CRSC or is only in receipt of CRSC. Only in a case where remittance could not be made through deductions would the retiree be required to make payment directly through other means (i.e., US Bank Lockbox, Pay.Gov, or a Credit Card).

Currently, there are 49,493 retirees paying SBP premiums directly, rather than through a deduction from their monthly retired pay: Of those retirees 42,338 remit payments directly to a DFAS maintained lockbox, the other 7,164 remit payment through the VA. Of these 14,382 military retirees are in receipt of CRSC.

There are administrative burdens to the military retiree who must write checks to pay SBP costs. If checks are not timely received and written, the military retiree incurs costly interest on an SBP premium debt. In addition the failure of the military retiree to remit premiums affects the annuitant. If at the time of a military retiree's death there is an SBP premium debt, the SBP law requires the premiums to be collected from the annuityin full before the annuity can start. This can lead to survivors not receiving their annuity for months or years after the military retiree has died.

In addition to the member's costs, there are significant costs to DFAS with being the lockbox owner. DFAS also assumes risks in manually processing over 40,000 paper checks. This legislation will reduce the volume of lockbox transactions. In addition, the military retiree in receipt of CRSC will benefit being spared the effort and confusion of maintaining their own direct remittance account.

Budget Implications

Total costs associated with implementing this proposal are estimated to be $50,568.00. Total annual savings associated with implementing this recommendation are estimated to be $740,000.00. The bulk of these savings would result from the elimination of direct costs associated with maintaining the lockbox, and mailing costs associated with direct remittance.

RESOURCE SAVINGS DRIVEN BY PROPOSED LEGISLATIVE CHANGE ALLOWING DEDUCTIONS FROM CRSC ($MILLIONS)					
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**
Savings Associated with Elimination of Lockbox	**0.7**	**0.7**	**0.7**	**0.7**	**0.7**
Associated R&A Material Savings	**0.04**	**0.04**	**0.04**	**0.04**	**0.04**
TOTAL	**0.74**	**0.74**	**0.74**	**0.74**	**0.74**

Changes to Existing Laws: This proposal would make the following changes to subchapter II of chapter 73 of title 10, United States Code, Survivor Benefit Plan:

§1449. Mental incompetency of member

(a) ELECTION BY SECRETARY CONCERNED ON BEHALF OF MENTALLY INCOMPETENT MEMBER.—If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, an election described in subsection (a)(2) or (b) of section 1448 of this title may be made on behalf of that person by the Secretary concerned.

(b) REVOCATION OF ELECTION BY MEMBER.—

(1) AUTHORITY UPON SUBSEQUENT DETERMINATION OF MENTAL COMPETENCE.— If a person for whom the Secretary has made an election under subsection (a) is later determined to be mentally competent by an authority named in that subsection, that person may, within 180 days after that determination, revoke that election.

(2) DEDUCTIONS FROM RETIRED PAY <u>OR CRSC</u> NOT TO BE REFUNDED.—Any deduction made from retired pay <u>or combat-related special compensation</u> by reason of such an election may not be refunded.

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§1450. Payment of annuity: beneficiaries

(a) IN GENERAL.—Effective as of the first day after the death of a person to whom section 1448 of this title applies (or on such other day as that person may provide under subsection (j)), a monthly annuity under section 1451 of this title shall be paid to the person's beneficiaries under the Plan, as follows:

(1) Surviving spouse or former spouse.-The eligible surviving spouse or the eligible former spouse.

(2) Surviving children.-The surviving dependent children in equal shares, if the eligible surviving spouse or the eligible former spouse is dead, dies, or otherwise becomes ineligible under this section.

(3) Dependent children.-The dependent children in equal shares if the person to whom section 1448 of this title applies (with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title) elected to provide an annuity for dependent children but not for the spouse or former spouse.

(4) Natural person designated under "insurable interest" coverage.-The natural person designated under section 1448(b)(1) of this title, unless the election to provide an annuity to the natural person has been changed as provided in subsection (f).

(b) TERMINATION OF ANNUITY FOR DEATH, REMARRIAGE BEFORE AGE 55, ETC.—

(1) General rule.-An annuity payable to the beneficiary terminates effective as of the first day of the month in which eligibility is lost.

(2) Termination of spouse annuity upon death or remarriage before age 55.-An annuity for a surviving spouse or former spouse shall be paid to the surviving spouse or former spouse while the surviving spouse or former spouse is living or, if the surviving spouse or former spouse remarries before reaching age 55, until the surviving spouse or former spouse remarries.

(3) Effect of termination of subsequent marriage before age 55.-If the surviving spouse or former spouse remarries before reaching age 55 and that marriage is terminated by death, annulment, or divorce, payment of the annuity shall be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the surviving spouse or former spouse is also entitled to an annuity under the Plan based upon the marriage so terminated, the surviving spouse or former spouse may not receive both annuities but must elect which to receive.

(c) OFFSET FOR AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION.—

(1) Required offset.-If, upon the death of a person to whom section 1448 of this title applies, the surviving spouse or former spouse of that person is also entitled to dependency and indemnity compensation under section 1311(a) of title 38, the surviving spouse or former spouse may be paid an annuity under this section, but only in the amount that the annuity otherwise payable under this section would exceed that compensation.

(2) Effective date of offset.-A reduction in an annuity under this section required by paragraph (1) shall be effective on the date of the commencement of the period of payment of such dependency and indemnity compensation under title 38.

(3) Limitation on recoupment of offset amount.-Any amount subject to offset under this subsection that was previously paid to the surviving spouse or former spouse shall be recouped only to the extent that the amount paid exceeds any amount to be refunded under subsection (e). In notifying a surviving spouse or former spouse of the recoupment requirement, the Secretary shall provide the spouse or former spouse-

(A) a single notice of the net amount to be recouped or the net amount to be refunded, as applicable, under this subsection or subsection (e);

(B) a written explanation of the statutory requirements for recoupment of the offset amount and for refund of any applicable amount deducted from retired pay;

(C) a detailed accounting of how the offset amount being recouped and retired pay deduction amount being refunded were calculated; and

(D) contact information for a person who can provide information about the offset recoupment and retired pay deduction refund processes and answer questions the surviving spouse or former spouse may have about the requirements, processes, or amounts.

(d) LIMITATION ON PAYMENT OF ANNUITIES WHEN COVERAGE UNDER CIVIL SERVICE RETIREMENT ELECTED.—If, upon the death of a person to whom section 1448 of this title applies, that person had in effect a waiver of that person's retired pay for the purposes of subchapter III of chapter 83 of title 5 or chapter 84 of such title, an annuity under this section shall not be payable unless, in accordance with section 8339(j) or 8416(a) of title 5, that person notified the Office of Personnel Management that he did not desire any spouse surviving him to receive an annuity under section 8341(b) or 8442(a) of that title.

(e) REFUND OF AMOUNTS DEDUCTED FROM RETIRED PAY <u>OR CRSC</u> WHEN DIC OFFSET IS APPLICABLE.—

(1) FULL REFUND WHEN DIC GREATER THAN SBP ANNUITY.—If an annuity under this section is not payable because of subsection (c), any amount deducted from the retired pay <u>or combat-related special compensation</u> of the deceased under section 1452 of this title shall be refunded to the surviving spouse or former spouse.

(2) PARTIAL REFUND WHEN SBP ANNUITY REDUCED BY DIC.—If, because of subsection (c), the annuity payable is less than the amount established under section 1451 of this title, the annuity payable shall be recalculated under that section. The amount of the reduction in the retired pay <u>or combat-related special compensation</u> required to provide that recalculated annuity shall be computed under section 1452 of this title, and the difference between the amount deducted before the computation of that recalculated annuity and the amount that would have been deducted on the basis of that recalculated annuity shall be refunded to the surviving spouse or former spouse.

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§ 1452. Reduction in retired pay

(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—***

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(b) CHILD-ONLY ANNUITIES.— ***

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(c) REDUCTION FOR INSURABLE INTEREST COVERAGE.—***

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(d) DEPOSITS TO COVER PERIODS WHEN RETIRED PAY NOT PAID OR NOT SUFFICIENT.—

(1) REQUIRED DEPOSITS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, that person must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period, except to the extent that the required deduction is made pursuant to paragraph (2).

(2) REQUIRED REDUCTION OF PERSON IN RECEIPT OF COMBAT RELATED SPECIAL COMPENSATION.—If a person has been awarded retired pay and has also been awarded combat-related special compensation pursuant to section 1413a of this title, to the extent that required deductions cannot be made from the person's retired pay, then deductions shall be made from the person's combat-related special compensation in the amount that would otherwise have been deducted from the person's retired pay for that period.

(~~2~~3) DEPOSITS NOT REQUIRED WHEN PARTICIPANT ON ACTIVE DUTY.~~—Paragraph~~ Paragraphs (1) and (2) ~~does~~ do not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

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(f) REFUNDS OF DEDUCTIONS NOT ALLOWED.—

(1) GENERAL RULE.—A person is not entitled to refund of any amount deducted from retired pay or combat-related special compensation under this section.

(2) EXCEPTIONS.—Paragraph (1) does not apply—

(A) in the case of a refund authorized by section 1450(e) of this title; or

(B) in case of a deduction made through administrative error.

(g) DISCONTINUATION OF PARTICIPATION BY PARTICIPANTS WHOSE SURVIVING SPOUSES WILL BE ENTITLED TO DIC.—

(1) DISCONTINUATION.-

(A) CONDITIONS.-Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

(B) EFFECTIVE DATE.-Participation in the Plan of a person who submits a request under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay

on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) FORM FOR REQUEST FOR DISCONTINUATION.— * * *

(2) CONSENT OF BENEFICIARIES REQUIRED.— * * *

(3) INFORMATION ON PLAN TO BE PROVIDED BY SECRETARY CONCERNED.-

(A) INFORMATION TO BE PROVIDED PROMPTLY TO PARTICIPANT.-The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

(B) RIGHT TO WITHDRAW DISCONTINUATION REQUEST.-A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

(4) REFUND OF DEDUCTIONS FROM RETIRED PAY OR CRSC.—Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay or combat-related special compensation of that person under this section shall be refunded to the person's surviving spouse.

(5) RESUMPTION OF PARTICIPATION IN PLAN.- ***

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