

110TH CONGRESS  
1ST SESSION

# S. 663

To amend title 10, United States Code, to repeal the statutory designation of beneficiaries of the \$100,000 death gratuity under section 1477 of title 10, United States Code, and to permit members of the Armed Forces to designate in writing their beneficiaries of choice in the event of their death while serving on active duty.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2007

Mr. McCAIN 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 statutory designation of beneficiaries of the \$100,000 death gratuity under section 1477 of title 10, United States Code, and to permit members of the Armed Forces to designate in writing their beneficiaries of choice in the event of their death while serving on active duty.

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

1     **SECTION 1. MODIFICATION OF SCHEME FOR PAYMENT OF**  
2                   **DEATH GRATUITY PAYABLE WITH RESPECT**  
3                   **TO MEMBERS OF THE ARMED FORCES.**

4     (a) FINDINGS.—Congress makes the following find-  
5     ings:

6                   (1) The death gratuity authorized under sec-  
7     tions 1475 to 1480 of title 10, United States Code,  
8     was intended, when originally enacted to provide an  
9     immediate cash payment to assist survivors of de-  
10    ceased members of the Armed Forces to meet their  
11    financial needs during the period immediately fol-  
12    lowing a member's death and before other survivor  
13    benefits become available.

14                  (2) The death gratuity, when first implemented  
15    in 1908, amounted to six months of a service mem-  
16    ber's pay and, until 1991, could not exceed \$3,000.

17                  (3) However, following the attacks of Sep-  
18    tember 11, 2001, and the initiation of Operation  
19    Enduring Freedom and Operation Iraqi Freedom,  
20    Congress determined that the death benefits avail-  
21    able to survivors of members of the Armed Forces  
22    should be substantially increased.

23                  (4) The National Defense Authorization Act for  
24    Fiscal Year 2006, which was enacted on January 6,  
25    2006, as Public Law 109–163, increased the amount

1 of the death gratuity to \$100,000, effective retro-  
2 actively to October 7, 2001.

3 (5) Under section 1477 of title 10, United  
4 States Code, the law authorizing the death gratuity,  
5 those living relatives of deceased members of the  
6 Armed Forces who shall receive the death gratuity  
7 are specifically designated. Service members are not  
8 provided with the opportunity to make an election  
9 choosing a beneficiary other than those set forth in  
10 section 1477 of title 10, United States Code.

11 (6) The increased death gratuity, in combina-  
12 tion with benefits available under the  
13 Servicemembers' Group Life Insurance program, the  
14 Survivor Benefit Plan, and Dependency and Indem-  
15 nity Compensation provide significant support and  
16 compensation to the next of kin of deceased mem-  
17 bers of the Armed Forces. Individual members are  
18 best qualified to determine who the beneficiaries for  
19 death benefits should be and should be afforded the  
20 opportunity to make these selections at appropriate  
21 times throughout military service and particularly  
22 prior to mobilization or deployment to a combat  
23 zone.

24 (7) Under the current system, many members  
25 of the Armed Forces have designated individuals as

1       beneficiaries for the death gratuity in a manner not  
2       provided for by law. In these cases, the wishes of  
3       these members regarding the disposition of the  
4       death gratuity has in many cases not been imple-  
5       mented, to the detriment of their children and other  
6       loved ones.

7       (b) SENSE OF CONGRESS.—It is the sense of Con-  
8       gress that all members of the Armed Forces should be  
9       given the opportunity to affirmatively select who shall re-  
10      ceive the death gratuity and that the Secretary of Defense  
11      and the Secretaries of the military departments should  
12      take prompt action to afford members the opportunity to  
13      make an election in writing about the disposition of the  
14      death gratuity proceeds and to provide appropriate and  
15      timely counseling about the manner in which the proceeds  
16      of the death gratuity and other forms of insurance will  
17      be administered.

18       (c) MODIFICATION.—

19           (1) IN GENERAL.—Subsection (a) of section  
20       1477 of title 10, United States Code, is amended by  
21       striking all that follows “on the following list:” and  
22       inserting the following:

23           “(1) To any individual designated by the person  
24       in writing.

1           “(2) If there is no person so designated, to the  
2       surviving spouse of the person.

3           “(3) If there is none of the above, to the chil-  
4       dren (as prescribed by subsection (b)) of the person  
5       and the descendants of any deceased children by  
6       representation.

7           “(4) If there is none of the above, to the par-  
8       ents (as prescribed by subsection (c)) of the person  
9       or the survivor of them.

10          “(5) If there is none of the above, to the duly  
11       appointed executor or administrator of the estate of  
12       the person.

13          “(6) If there is none of the above, to other next  
14       of kin of the person entitled under the laws of domi-  
15       cile of the person at the time of the person’s  
16       death.”.

17          (2) CONFORMING AMENDMENTS.—Such section  
18       is further amended—

19           (A) in subsection (b), by striking “Sub-  
20       section (a)(2)” in the matter preceding para-  
21       graph (1) and inserting “Subsection (a)(3)”;

22           (B) by striking (c) and inserting the fol-  
23       lowing new subsection (c):

24          “(c) For purposes of subsection (a)(4), parents in-  
25       clude fathers and mothers through adoption. However,

1 only one father and one mother may be recognized in any  
2 case, and preference shall be given to those who exercised  
3 a parental relationship on the date, or most nearly before  
4 the date, on which the decedent entered a status described  
5 in section 1475 or 1476 of this title.”; and

6 (C) by striking subsection (d).

7 (3) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall take effect on the date of the  
9 enactment of this Act.

10 (4) APPLICABILITY.—Notwithstanding para-  
11 graph (3), the provisions of section 1477 of title 10,  
12 United States Code, as in effect on the day before  
13 the date of the enactment of this Act, shall continue  
14 to apply to each member of the Armed Forces cov-  
15 ered by such section until the earlier of the fol-  
16 lowing—

17 (A) the date on which such member makes  
18 the designation contemplated by paragraph (1)  
19 of section 1477(a) of such title (as amended by  
20 paragraph (1) of this subsection); or

21 (B) January 1, 2008.

22 (d) REGULATIONS.—

23 (1) IN GENERAL.—Not later than April 1,  
24 2007, the Secretary of Defense shall prescribe regu-  
25 lations to implement the amendments to section

1 1477 of title 10, United States Code, made by sub-  
2 section (c).

3 (2) ELEMENTS.—The regulations required by  
4 paragraph (1) shall include forms for the making of  
5 the designation contemplated by paragraph (1) of  
6 section 1477(a) of title 10, United States Code (as  
7 amended by subsection (c)), and instructions for  
8 members of the Armed Forces in the filling out of  
9 such forms.

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