To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. MILLER of Florida (for himself, Mr. SCHROCK, Mr. MORAN of Virginia, Mr. DUNCAN, Mr. SAXTON, Mr. EDWARDS, Mr. ISRAEL, Mr. HOLDEN, Mr. LUCAS of Kentucky, Mr. GIBBONS, Mr. WILSON of South Carolina, Mr. PAUL, Mr. VITTER, Mr. FOLEY, Mr. RODRIGUEZ, Mr. WHITFIELD, Mr. MICA, Mrs. CHRISTENSEN, Mr. ADERHOLT, Mr. MANZULLO, Mr. LANTOS, Mr. TIBERI, Mr. FILNER, Mr. BROWN of South Carolina, Mr. JEFFERSON, Mr. MCGOVERN, Mr. WU, Mr. SMITH of New Jersey, Mr. McINNIS, Ms. WOOLSEY, Mr. BROWN of Ohio, Mr. LAMPSO, Mr. UDALL of New Mexico, Mr. TURNER of Texas, Ms. ROS-LEHTINEN, Ms. HART, Mr. PETRI, Mr. SANDLIN, Mr. CARSON of Oklahoma, Mr. KINGSTON, Mr. LYNCH, Mr. ISTOOK, Mr. QUINN, Mr. BAKER, Ms. CARRINE BROWN of Florida, Mrs. JONES of Ohio, Mr. WALDEN of Oregon, Mr. SIMMONS, Mr. DAVIS of Florida, Mr. BOOZMAN, Mr. BEAUPREZ, Mr. BACA, Mr. SMITH of Washington, Mr. LINCOLN DIAZ-BALART of Florida, Mr. PICKERING, Ms. CARSON of Indiana, Mr. GOODE, Mr. MCEINTYRE, Mr. SOUDER, Mr. CRENSHAW, Mr. RAHALL, Mr. FROST, Ms. GINNY BROWN-WAITE of Florida, Mr. TERRY, Mr. FRANK of Massachusetts, Mr. JENKINS, Mr. OLIVER, Mr. GREEN of Texas, Mr. PUTNAM, Mr. GREEN of Wisconsin, Mr. GRUJALVA, Mr. BOYD, Mr. KENNEDY of Rhode Island, Mr. PALLONE, Mr. WYNN, Mr. LAFOURCHE, Mrs. WILSON of New Mexico, Mr. BELL, Mr. JONES of North Carolina, Mr. TANCREDO, Mr. TOM DAVIS of Virginia, Mr. CRAMER, Mrs. MCCARTHY of New York, Mr. BURR, Mr. EVANS, Mr. BILIRAKIS, Mr. CUNNINGHAM, Ms. NORTON, Mr. GOSS, Mr. HONDA, Ms. HOOLEY of Oregon, Ms. BERKLEY, Mr. LAHOOD, Mrs. MUSGRAVE, Mr. HINCHLEY, Mr. ROSS, Mrs. EMERSON, Mr. OTTER, Mr. PASTOR, Ms. SOLIS, Mr. COMBEST, Mr. KLINE, Mr. McCRERY, Mr. OBERSTAR, Ms. KILPATRICK, Mr. DEUTCH, Mr. ROTHMAN, Mr. PEARCE, Mr. SANDERS, Mr. WOLF, Mr. HAYWORTH, Mr. PETERSON of Pennsylvania, Mr. COSTELLO, Ms. KAPTUR, Ms. HARRIS, Mr. ROYCE, Mr. KING of New York, Ms. LINDA T. SÁNCHEZ of California, and Mr.
A BILL

To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, 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 Survivor Benefits Improvement Act of 2003”.

SEC. 2. COMPUTATION OF BENEFITS UNDER SURVIVOR BENEFIT PLAN FOR SURVIVING SPOUSES OVER AGE 62.

(a) Phased Increase in Basic Annuity.—

(1) Standard Annuity.—

(A) Increase to 55 percent.—Clause (i)

of subsection (a)(1)(B) of section 1451 of title 10, United States Code, is amended by striking “35 percent of the base amount.” and inserting “the product of the base amount and the percent applicable to the month, as follows:
“(I) For a month before October 2004, the applicable percent is 35 percent.

“(II) For a month during fiscal year 2005, the applicable percent is 40 percent.

“(III) For a month during fiscal year 2006, the applicable percent is 45 percent.

“(IV) For a month during fiscal year 2007, the applicable percent is 50 percent.

“(V) For a month during a fiscal year after fiscal year 2007, the applicable percent is 55 percent.”.

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ‘‘, at the time the beneficiary becomes entitled to the annuity,’’.

(2) RESERVE-COMPONENT ANNUITY.—Subsection (a)(2)(B)(i)(I) of such section is amended by striking ‘‘35 percent’’ and inserting ‘‘the percent specified under subsection (a)(1)(B)(i) as being applicable for the month’’.
(3) Survivors of eligible persons dying on active duty, etc.—

(A) Increase to 55 percent.—Clause (i) of subsection (c)(1)(B) of such section is amended—

(i) by striking “35 percent” and inserting “the applicable percent”; and

(ii) by adding at the end the following: “The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.”.

(B) Coordination with savings provision under prior law.—Clause (ii) of such subsection is amended by striking “, at the time the beneficiary becomes entitled to the annuity,”.

(4) Clerical amendment.—The heading for subsection (d)(2)(A) of such section is amended to read as follows: “Computation of annuity.—”.

(b) Corresponding phased elimination of supplemental annuity.—
(1) Phased reduction of supplemental annuity.—Section 1457(b) of title 10, United States Code, is amended—

(A) by striking “5, 10, 15, or 20 percent” and inserting “the applicable percent”; and

(B) by inserting after the first sentence the following: “The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months before October 2004, 15 percent for months during fiscal year 2005, 10 percent for months during fiscal year 2006, and 5 percent for months after September 2006.”.

(2) Repeal upon implementation of 55 percent SBP annuity.—Effective on October 1, 2007, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) Recomputation of annuities.—

(1) Periodic recomputation required.—

Effective on the first day of each month specified in paragraph (2)—
(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2004.

(B) October 2005.
(d) Recomputation of Retired Pay Reductions for Supplemental Survivor Annuities.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

SEC. 3. OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2004.

(a) Persons Not Currently Participating in Survivor Benefit Plan.—

(1) Election of SBP coverage.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in subsection (f).

(2) Election of supplemental annuity coverage.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to par-
participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—
For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a
reserve-component annuity under the Survivor Benefit Plan.

(b) Election To Increase Coverage Under SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person’s spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant’s retired pay); or

(2) provide annuity coverage under the Plan for the person’s spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) Election for Current SBP Participants To Participate in Supplemental SBP.—

(1) Election.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.
(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person’s spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case
of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on October 1, 2004.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective
date of the election, the election is void and the amount
of any reduction in retired pay of the person that is attrib-
utable to the election shall be paid in a lump sum to the
person who would have been the deceased person’s bene-
ficiary under the voided election if the deceased person
had died after the end of such two-year period.

(h) **Applicability of Certain Provisions of Law.**—The provisions of sections 1449, 1453, and 1454
of title 10, United States Code, are applicable to a person
making an election, and to an election, under this section
in the same manner as if the election were made under
the Survivor Benefit Plan or the Supplemental Survivor
Benefit Plan, as the case may be.

(i) **Additional Premium.**—The Secretary of De-
defense may require that the premium for a person making
an election under subsection (a)(1) or (b) include, in addi-
tion to the amount required under section 1452(a) of title
10, United States Code, an amount determined under reg-
ulations prescribed by the Secretary of Defense for the
purposes of this subsection. Any such amount shall be
stated as a percentage of the base amount of the person
making the election and shall reflect the number of years
that have elapsed since the person retired, but may not
exceed 4.5 percent of that person’s base amount.
(j) REPORT CONCERNING OPEN SEASON.—Not later than July 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary’s plans for implementation of the open season.

(2) The Secretary’s estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.