

108TH CONGRESS
2D SESSION

H. R. 3763

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 4, 2004

Mr. MILLER of Florida (for himself, Mr. BILIRAKIS, Mr. TURNER of Ohio, Mr. SNYDER, Mr. RODRIGUEZ, Mr. BACHUS, Mr. BERRY, Mr. DEFazio, Mr. HOLDEN, Mr. ISAKSON, Ms. KILPATRICK, Mr. BARTLETT of Maryland, Mr. ACEVEDO-VILÁ, Mr. HINCHEY, Mr. LAMPSON, Mr. BISHOP of Georgia, Mr. WILSON of South Carolina, Mr. BOYD, Mr. QUINN, Mrs. MCCARTHY of New York, Mr. EVANS, Mr. MICA, Mr. KING of Iowa, Mr. MCGOVERN, Mr. LAHOOD, Mr. SIMMONS, Mr. VITTER, Mr. GRIJALVA, Mr. EDWARDS, Ms. GINNY BROWN-WAITE of Florida, Mr. RUPPERSBERGER, Mr. FATTAH, Mr. SCOTT of Georgia, Mr. SMITH of New Jersey, Mr. FOLEY, Mr. VAN HOLLEN, Mr. CRANE, Mr. GOSS, Mr. LATOURETTE, Mr. PAUL, Mr. NEAL of Massachusetts, Mr. BAKER, Mr. DUNCAN, Mr. ISTOOK, Mr. JONES of North Carolina, Mr. BROWN of South Carolina, Mr. NORWOOD, Mr. SCHROCK, Mr. FRANKS of Arizona, Mr. ALLEN, Mr. COLLINS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. GOODE, Mr. MURTHA, Mr. MATHESON, Mr. MICHAUD, Mr. STRICKLAND, Mr. MCINTYRE, Mr. REYES, Mr. FILNER, Mr. MEEKS of New York, Mr. PEARCE, Ms. HART, Mr. PUTNAM, Mr. NEY, Mr. FORBES, Mr. KING of New York, Mrs. MYRICK, Mr. BURGESS, Mr. HAYES, Mr. CALVERT, Mrs. JO ANN DAVIS of Virginia, Mr. COOPER, Mr. BALLANCE, Mr. FORD, Mr. ROGERS of Michigan, Mr. SMITH of Washington, Mr. FROST, Mr. JENKINS, Mr. GUTIERREZ, Mr. TAYLOR of Mississippi, Mr. TURNER of Texas, Mr. PALLONE, Mr. MEEHAN, Mr. SANDLIN, Mr. GILLMOR, Mr. SANDERS, Mr. MENENDEZ, Mr. WICKER, Mr. OWENS, Mr. ALEXANDER, Ms. BORDALLO, Ms. HOOLEY of Oregon, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. ENGLISH, Mr. BURR, Mr. BROWN of Ohio, Mr. MILLER of North Carolina, Ms. DELAURO, Mr. CUNNINGHAM, Mr. CROWLEY, Mr. KELLER, Mr. HOFFEL, Mr. GIBBONS, Mr. SHERMAN, Mr. KUCINICH, Mr. SPRATT, Mr. THOMPSON of California, Mr. STENHOLM, Mr. KENNEDY of Rhode Island, Mr. OTTER, Ms. HARMAN, Mrs. MUSGRAVE, Mr. JOHN, Mr. MOORE, Mr. PETERSON of Minnesota, Mr. LYNCH, Ms. NORTON, Mr. ISRAEL, Mr. MARKEY, Mr. KILDEE, Mr. UDALL of New Mexico,

Mr. BISHOP of New York, Mr. MEEK of Florida, Mr. JOHNSON of Illinois, Mrs. NAPOLITANO, Mr. ROSS, Mr. ORTIZ, Mr. KIND, Ms. LEE, Mr. BONNER, Mr. TERRY, Mr. MCINNIS, Mr. UDALL of Colorado, Mrs. BLACKBURN, Mr. ENGEL, Mr. OLVER, Ms. MAJETTE, Mr. HOSTETTLER, Mr. DICKS, Mr. McDERMOTT, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Mr. PICKERING, Ms. MILLENDER-McDONALD, Mr. BOSWELL, Mrs. BONO, Mr. MORAN of Virginia, Mr. JEFFERSON, Ms. WATERS, Mr. MURPHY, Mr. ANDREWS, Ms. CARSON of Indiana, Mr. CARDOZA, Mr. ROTHMAN, Mr. BOUCHER, Mr. LANGEVIN, Mr. DEUTSCH, Mr. TANNER, Mr. LARSON of Connecticut, Mr. CRAMER, Ms. JACKSON-LEE of Texas, Mr. BOOZMAN, Mr. WELDON of Pennsylvania, Mr. BAIRD, Mr. LoBIONDO, Ms. BERKLEY, Mr. SOUDER, Mrs. MILLER of Michigan, Mr. LEWIS of Georgia, Mr. PORTER, Mr. HONDA, Mr. GERLACH, Mr. COSTELLO, Mr. KIRK, Mr. DOYLE, Mrs. CAPITO, Mr. MANZULLO, Mrs. DAVIS of California, Mr. BRADLEY of New Hampshire, Mr. LARSEN of Washington, Mrs. LOWEY, Mr. BERMAN, Mr. LIPINSKI, Mr. ROGERS of Alabama, Mr. TIBERI, Mr. CONYERS, Mr. PETERSON of Pennsylvania, Mr. OBERSTAR, Mr. HAYWORTH, Ms. SLAUGHTER, Mr. SERRANO, Mr. JACKSON of Illinois, Mr. DOGGETT, Mr. BARRETT of South Carolina, Mr. TOWNS, Mr. CLYBURN, Mr. EVERETT, Mr. RYAN of Ohio, Mr. GALLEGLY, Ms. WOOLSEY, Mr. HALL, Mr. SESSIONS, Mr. McCOTTER, Mr. BELL, Mr. DeMINT, Mr. KANJORSKI, Mr. CASE, Mr. SHUSTER, Mr. OSE, Mr. KINGSTON, Mr. GEORGE MILLER of California, Mr. DAVIS of Tennessee, Mr. INSLEE, Mr. NEUGEBAUER, Mr. BACA, Mr. MARSHALL, Mr. SAXTON, Mrs. CAPPS, Mr. DELAHUNT, Mr. WEINER, Mr. ROYCE, Mr. SHAW, Mr. SCHIFF, Mr. STUPAK, Mr. GREEN of Wisconsin, and Mr. SULLIVAN) introduced the following bill; which was referred to the Committee on Armed Services

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.

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. SHORT TITLE.**

2 This Act may be cited as the “Military Survivor Ben-
3 efits Improvement Act of 2004”.

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

7 (a) PHASED INCREASE IN BASIC ANNUITY.—

8 (1) STANDARD ANNUITY.—

9 (A) INCREASE TO 55 PERCENT.—Clause (i)
10 of subsection (a)(1)(B) of section 1451 of title
11 10, United States Code, is amended by striking
12 “35 percent of the base amount.” and inserting
13 “the product of the base amount and the per-
14 cent applicable to the month, as follows:

15 “(I) For a month before October
16 2005, the applicable percent is 35 per-
17 cent.

18 “(II) For months after Sep-
19 tember 2005 and before October
20 2008, the applicable percent is 40 per-
21 cent.

22 “(III) For months after Sep-
23 tember 2008 and before October
24 2014, the applicable percent is 45 per-
25 cent.

1 “(IV) For months after Sep-
2 tember 2014, the applicable percent is
3 55 percent.”.

4 (B) COORDINATION WITH SAVINGS PROVI-
5 SION UNDER PRIOR LAW.—Clause (ii) of such
6 subsection is amended by striking “, at the time
7 the beneficiary becomes entitled to the annu-
8 ity,”.

9 (2) RESERVE-COMPONENT ANNUITY.—Sub-
10 section (a)(2)(B)(i)(I) of such section is amended by
11 striking “35 percent” and inserting “the percent
12 specified under subsection (a)(1)(B)(i) as being ap-
13 plicable for the month”.

14 (3) SURVIVORS OF ELIGIBLE PERSONS DYING
15 ON ACTIVE DUTY, ETC.—

16 (A) INCREASE TO 55 PERCENT.—Clause (i)
17 of subsection (c)(1)(B) of such section is
18 amended—

19 (i) by striking “35 percent” and in-
20 serting “the applicable percent”; and

21 (ii) by adding at the end the fol-
22 lowing: “The percent applicable for a
23 month under the preceding sentence is the
24 percent specified under subsection

1 (a)(1)(B)(i) as being applicable for that
2 month.”.

3 (B) COORDINATION WITH SAVINGS PROVI-
4 SION UNDER PRIOR LAW.—Clause (ii) of such
5 subsection is amended by striking “, at the time
6 the beneficiary becomes entitled to the annu-
7 ity,”.

8 (4) CLERICAL AMENDMENT.—The heading for
9 subsection (d)(2)(A) of such section is amended to
10 read as follows: “COMPUTATION OF ANNUITY.—”.

11 (b) CORRESPONDING PHASED ELIMINATION OF SUP-
12 PLEMENTAL ANNUITY.—

13 (1) PHASED REDUCTION OF SUPPLEMENTAL
14 ANNUITY.—Section 1457(b) of title 10, United
15 States Code, is amended—

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

18 (B) by inserting after the first sentence
19 the following: “The percent used for the com-
20 putation shall be an even multiple of 5 percent
21 and, whatever the percent specified in the elec-
22 tion, may not exceed 20 percent for months be-
23 fore October 2005, 15 percent for months dur-
24 ing fiscal years 2006, 2007, and 2008, and 10

1 percent for months during fiscal years 2009
2 through 2014.”.

3 (2) REPEAL UPON IMPLEMENTATION OF 55
4 PERCENT SBP ANNUITY.—Effective on October 1,
5 2014, chapter 73 of such title is amended—

6 (A) by striking subchapter III; and

7 (B) by striking the item relating to sub-
8 chapter III in the table of subchapters at the
9 beginning of that chapter.

10 (c) RECOMPUTATION OF ANNUITIES.—

11 (1) PERIODIC RECOMPUTATION REQUIRED.—
12 Effective on the first day of each month specified in
13 paragraph (2)—

14 (A) each annuity under section 1450 of
15 title 10, United States Code, that commenced
16 before that month, is computed under a provi-
17 sion of section 1451 of that title amended by
18 subsection (a), and is payable for that month
19 shall be recomputed so as to be equal to the
20 amount that would be in effect if the percent
21 applicable for that month under that provision,
22 as so amended, had been used for the initial
23 computation of the annuity; and

24 (B) each supplemental survivor annuity
25 under section 1457 of such title that com-

1 menced before that month and is payable for
2 that month shall be recomputed so as to be
3 equal to the amount that would be in effect if
4 the percent applicable for that month under
5 that section, as amended by this section, had
6 been used for the initial computation of the
7 supplemental survivor annuity.

8 (2) TIME FOR RECOMPUTATION.—The require-
9 ment under paragraph (1) for recomputation of cer-
10 tain annuities applies with respect to the following
11 months:

12 (A) October 2005.

13 (B) October 2008.

14 (C) October 2014.

15 (d) RECOMPUTATION OF RETIRED PAY REDUCTIONS
16 FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Sec-
17 retary of Defense shall take such actions as are neces-
18 sitated by the amendments made by subsection (b) and
19 the requirements of subsection (c)(1)(B) to ensure that
20 the reductions in retired pay under section 1460 of title
21 10, United States Code, are adjusted to achieve the objec-
22 tives set forth in subsection (b) of that section.

1 **SEC. 3. OPEN ENROLLMENT PERIOD FOR SURVIVOR BEN-**
2 **EFIT PLAN COMMENCING OCTOBER 1, 2005.**

3 (a) PERSONS NOT CURRENTLY PARTICIPATING IN
4 SURVIVOR BENEFIT PLAN.—

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

11 (2) ELECTION OF SUPPLEMENTAL ANNUITY
12 COVERAGE.—An eligible retired or former member
13 who elects under paragraph (1) to participate in the
14 Survivor Benefit Plan at the maximum level may
15 also elect during the open enrollment period to par-
16 ticipate in the Supplemental Survivor Benefit Plan
17 established under subchapter III of chapter 73 of
18 title 10, United States Code.

19 (3) ELIGIBLE RETIRED OR FORMER MEMBER.—
20 For purposes of paragraphs (1) and (2), an eligible
21 retired or former member is a member or former
22 member of the uniformed services who on the day
23 before the first day of the open enrollment period is
24 not a participant in the Survivor Benefit Plan and—
25 (A) is entitled to retired pay; or

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

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

7 (A) STANDARD ANNUITY.—A person mak-
8 ing an election under paragraph (1) by reason
9 of eligibility under paragraph (3)(A) shall be
10 treated for all purposes as providing a standard
11 annuity under the Survivor Benefit Plan.

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

18 (b) ELECTION TO INCREASE COVERAGE UNDER
19 SBP.—A person who on the day before the first day of
20 the open enrollment period is a participant in the Survivor
21 Benefit Plan but is not participating at the maximum base
22 amount or is providing coverage under the Plan for a de-
23 pendent child and not for the person's spouse or former
24 spouse may, during the open enrollment period, elect to—

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

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

8 (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO
9 PARTICIPATE IN SUPPLEMENTAL SBP.—

10 (1) ELECTION.—A person who is eligible to
11 make an election under this paragraph may elect
12 during the open enrollment period to participate in
13 the Supplemental Survivor Benefit Plan established
14 under subchapter III of chapter 73 of title 10,
15 United States Code.

16 (2) PERSONS ELIGIBLE.—Except as provided in
17 paragraph (3), a person is eligible to make an elec-
18 tion under paragraph (1) if on the day before the
19 first day of the open enrollment period the person is
20 a participant in the Survivor Benefit Plan at the
21 maximum level, or during the open enrollment pe-
22 riod the person increases the level of such participa-
23 tion to the maximum level under subsection (b) of
24 this section, and under that Plan is providing annu-

1 ity coverage for the person's spouse or a former
2 spouse.

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

18 (d) MANNER OF MAKING ELECTIONS.—An election
19 under this section must be made in writing, signed by the
20 person making the election, and received by the Secretary
21 concerned before the end of the open enrollment period.
22 Any such election shall be made subject to the same condi-
23 tions, and with the same opportunities for designation of
24 beneficiaries and specification of base amount, that apply
25 under the Survivor Benefit Plan or the Supplemental Sur-

1 vivor Benefit Plan, as the case may be. A person making
2 an election under subsection (a) to provide a reserve-com-
3 ponent annuity shall make a designation described in sec-
4 tion 1448(e) of title 10, United States Code.

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

9 (f) OPEN ENROLLMENT PERIOD DEFINED.—The
10 open enrollment period is the one-year period beginning
11 on October 1, 2005.

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

22 (h) APPLICABILITY OF CERTAIN PROVISIONS OF
23 LAW.—The provisions of sections 1449, 1453, and 1454
24 of title 10, United States Code, are applicable to a person
25 making an election, and to an election, under this section

1 in the same manner as if the election were made under
2 the Survivor Benefit Plan or the Supplemental Survivor
3 Benefit Plan, as the case may be.

4 (i) ADDITIONAL PREMIUM.—The Secretary of De-
5 fense may require that the premium for a person making
6 an election under subsection (a)(1) or (b) include, in addi-
7 tion to the amount required under section 1452(a) of title
8 10, United States Code, an amount determined under reg-
9 ulations prescribed by the Secretary of Defense for the
10 purposes of this subsection. Any such amount shall be
11 stated as a percentage of the base amount of the person
12 making the election and shall reflect the number of years
13 that have elapsed since the person retired, but may not
14 exceed 4.5 percent of that person's base amount.

15 (j) REPORT CONCERNING OPEN SEASON.—Not later
16 than July 1, 2005, the Secretary of Defense shall submit
17 to the Committee on Armed Services of the Senate and
18 the Committee on Armed Services of the House of Rep-
19 resentatives a report on the open season authorized by this
20 section for the Survivor Benefit Plan. The report shall in-
21 clude the following:

22 (1) A description of the Secretary's plans for
23 implementation of the open season.

24 (2) The Secretary's estimates of the costs asso-
25 ciated with the open season, including any antici-

1 pated effect of the open season on the actuarial sta-
2 tus of the Department of Defense Military Retire-
3 ment Fund.

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

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