

108TH CONGRESS  
1ST SESSION

# H. R. 548

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.

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## 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. LAMPSON, 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. CORRINE 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. MCINTYRE, Mr. SOUDER, Mr. CRENSHAW, Mr. RAHALL, Mr. FROST, Ms. GINNY BROWN-WAITE of Florida, Mr. TERRY, Mr. FRANK of Massachusetts, Mr. JENKINS, Mr. OLVER, Mr. GREEN of Texas, Mr. PUTNAM, Mr. GREEN of Wisconsin, Mr. GRIJALVA, Mr. BOYD, Mr. KENNEDY of Rhode Island, Mr. PALLONE, Mr. WYNN, Mr. LATOURETTE, 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. HINCHEY, Mr. ROSS, Mrs. EMERSON, Mr. OTTER, Mr. PASTOR, Ms. SOLIS, Mr. COMBEST, Mr. KLINE, Mr. MCCRERY, Mr. OBERSTAR, Ms. KILPATRICK, Mr. DEUTSCH, 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.

MATHESON) introduced the following bill; which was referred to the Committee on Armed Services

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## 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,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Military Survivor Ben-  
 5 efits Improvement Act of 2003”.

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

9        (a) PHASED INCREASE IN BASIC ANNUITY.—

10            (1) STANDARD ANNUITY.—

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

1                   “(I) For a month before October  
2                   2004, the applicable percent is 35 per-  
3                   cent.

4                   “(II) For a month during fiscal  
5                   year 2005, the applicable percent is  
6                   40 percent.

7                   “(III) For a month during fiscal  
8                   year 2006, the applicable percent is  
9                   45 percent.

10                  “(IV) For a month during fiscal  
11                  year 2007, the applicable percent is  
12                  50 percent.

13                  “(V) For a month during a fiscal  
14                  year after fiscal year 2007, the appli-  
15                  cable percent is 55 percent.”.

16                  (B) COORDINATION WITH SAVINGS PROVI-  
17                  SION UNDER PRIOR LAW.—Clause (ii) of such  
18                  subsection is amended by striking “, at the time  
19                  the beneficiary becomes entitled to the annu-  
20                  ity,”.

21                  (2) RESERVE-COMPONENT ANNUITY.—Sub-  
22                  section (a)(2)(B)(i)(I) of such section is amended by  
23                  striking “35 percent” and inserting “the percent  
24                  specified under subsection (a)(1)(B)(i) as being ap-  
25                  plicable for the month”.

1           (3) SURVIVORS OF ELIGIBLE PERSONS DYING  
2           ON ACTIVE DUTY, ETC.—

3           (A) INCREASE TO 55 PERCENT.—Clause (i)  
4           of subsection (c)(1)(B) of such section is  
5           amended—

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

8           (ii) by adding at the end the fol-  
9           lowing: “The percent applicable for a  
10          month under the preceding sentence is the  
11          percent specified under subsection  
12          (a)(1)(B)(i) as being applicable for that  
13          month.”.

14          (B) COORDINATION WITH SAVINGS PROVI-  
15          SION UNDER PRIOR LAW.—Clause (ii) of such  
16          subsection is amended by striking “, at the time  
17          the beneficiary becomes entitled to the annu-  
18          ity,”.

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

22          (b) CORRESPONDING PHASED ELIMINATION OF SUP-  
23          PLEMENTAL ANNUITY.—

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

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

6           (B) by inserting after the first sentence  
7 the following: “The percent used for the com-  
8 putation shall be an even multiple of 5 percent  
9 and, whatever the percent specified in the elec-  
10 tion, may not exceed 20 percent for months be-  
11 fore October 2004, 15 percent for months dur-  
12 ing fiscal year 2005, 10 percent for months  
13 during fiscal year 2006, and 5 percent for  
14 months after September 2006.”.

15           (2) REPEAL UPON IMPLEMENTATION OF 55  
16 PERCENT SBP ANNUITY.—Effective on October 1,  
17 2007, chapter 73 of such title is amended—

18           (A) by striking subchapter III; and

19           (B) by striking the item relating to sub-  
20 chapter III in the table of subchapters at the  
21 beginning of that chapter.

22           (c) RECOMPUTATION OF ANNUITIES.—

23           (1) PERIODIC RECOMPUTATION REQUIRED.—

24           Effective on the first day of each month specified in  
25 paragraph (2)—

1           (A) each annuity under section 1450 of  
2 title 10, United States Code, that commenced  
3 before that month, is computed under a provi-  
4 sion of section 1451 of that title amended by  
5 subsection (a), and is payable for that month  
6 shall be recomputed so as to be equal to the  
7 amount that would be in effect if the percent  
8 applicable for that month under that provision,  
9 as so amended, had been used for the initial  
10 computation of the annuity; and

11           (B) each supplemental survivor annuity  
12 under section 1457 of such title that com-  
13 menced before that month and is payable for  
14 that month shall be recomputed so as to be  
15 equal to the amount that would be in effect if  
16 the percent applicable for that month under  
17 that section, as amended by this section, had  
18 been used for the initial computation of the  
19 supplemental survivor annuity.

20           (2) TIME FOR RECOMPUTATION.—The require-  
21 ment under paragraph (1) for recomputation of cer-  
22 tain annuities applies with respect to the following  
23 months:

24           (A) October 2004.

25           (B) October 2005.

1 (C) October 2006.

2 (D) October 2007.

3 (d) RECOMPUTATION OF RETIRED PAY REDUCTIONS  
4 FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Sec-  
5 retary of Defense shall take such actions as are neces-  
6 sitated by the amendments made by subsection (b) and  
7 the requirements of subsection (c)(1)(B) to ensure that  
8 the reductions in retired pay under section 1460 of title  
9 10, United States Code, are adjusted to achieve the objec-  
10 tives set forth in subsection (b) of that section.

11 **SEC. 3. OPEN ENROLLMENT PERIOD FOR SURVIVOR BEN-**  
12 **EFIT PLAN COMMENCING OCTOBER 1, 2004.**

13 (a) PERSONS NOT CURRENTLY PARTICIPATING IN  
14 SURVIVOR BENEFIT PLAN.—

15 (1) ELECTION OF SBP COVERAGE.—An eligible  
16 retired or former member may elect to participate in  
17 the Survivor Benefit Plan under subchapter II of  
18 chapter 73 of title 10, United States Code, during  
19 the open enrollment period specified in subsection  
20 (f).

21 (2) ELECTION OF SUPPLEMENTAL ANNUITY  
22 COVERAGE.—An eligible retired or former member  
23 who elects under paragraph (1) to participate in the  
24 Survivor Benefit Plan at the maximum level may  
25 also elect during the open enrollment period to par-

1        participate in the Supplemental Survivor Benefit Plan  
2        established under subchapter III of chapter 73 of  
3        title 10, United States Code.

4            (3) ELIGIBLE RETIRED OR FORMER MEMBER.—

5        For purposes of paragraphs (1) and (2), an eligible  
6        retired or former member is a member or former  
7        member of the uniformed services who on the day  
8        before the first day of the open enrollment period is  
9        not a participant in the Survivor Benefit Plan and—

10            (A) is entitled to retired pay; or

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

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

17            (A) STANDARD ANNUITY.—A person mak-  
18        ing an election under paragraph (1) by reason  
19        of eligibility under paragraph (3)(A) shall be  
20        treated for all purposes as providing a standard  
21        annuity under the Survivor Benefit Plan.

22            (B) RESERVE-COMPONENT ANNUITY.—A  
23        person making an election under paragraph (1)  
24        by reason of eligibility under paragraph (3)(B)  
25        shall be treated for all purposes as providing a

1           reserve-component annuity under the Survivor  
2           Benefit Plan.

3           (b) ELECTION TO INCREASE COVERAGE UNDER  
4 SBP.—A person who on the day before the first day of  
5 the open enrollment period is a participant in the Survivor  
6 Benefit Plan but is not participating at the maximum base  
7 amount or is providing coverage under the Plan for a de-  
8 pendent child and not for the person’s spouse or former  
9 spouse may, during the open enrollment period, elect to—

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

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

17           (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO  
18 PARTICIPATE IN SUPPLEMENTAL SBP.—

19           (1) ELECTION.—A person who is eligible to  
20           make an election under this paragraph may elect  
21           during the open enrollment period to participate in  
22           the Supplemental Survivor Benefit Plan established  
23           under subchapter III of chapter 73 of title 10,  
24           United States Code, as added by section 1404.

1           (2) PERSONS ELIGIBLE.—Except as provided in  
2 paragraph (3), a person is eligible to make an elec-  
3 tion under paragraph (1) if on the day before the  
4 first day of the open enrollment period the person is  
5 a participant in the Survivor Benefit Plan at the  
6 maximum level, or during the open enrollment pe-  
7 riod the person increases the level of such participa-  
8 tion to the maximum level under subsection (b) of  
9 this section, and under that Plan is providing annu-  
10 ity coverage for the person’s spouse or a former  
11 spouse.

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

1 of any other participant in the Survivor Benefit  
2 Plan.

3 (d) MANNER OF MAKING ELECTIONS.—An election  
4 under this section must be made in writing, signed by the  
5 person making the election, and received by the Secretary  
6 concerned before the end of the open enrollment period.  
7 Any such election shall be made subject to the same condi-  
8 tions, and with the same opportunities for designation of  
9 beneficiaries and specification of base amount, that apply  
10 under the Survivor Benefit Plan or the Supplemental Sur-  
11 vivor Benefit Plan, as the case may be. A person making  
12 an election under subsection (a) to provide a reserve-com-  
13 ponent annuity shall make a designation described in sec-  
14 tion 1448(e) of title 10, United States Code.

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

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

22 (g) EFFECT OF DEATH OF PERSON MAKING ELEC-  
23 TION WITHIN TWO YEARS OF MAKING ELECTION.—If a  
24 person making an election under this section dies before  
25 the end of the two-year period beginning on the effective

1 date of the election, the election is void and the amount  
2 of any reduction in retired pay of the person that is attrib-  
3 utable to the election shall be paid in a lump sum to the  
4 person who would have been the deceased person's bene-  
5 ficiary under the voided election if the deceased person  
6 had died after the end of such two-year period.

7 (h) APPLICABILITY OF CERTAIN PROVISIONS OF  
8 LAW.—The provisions of sections 1449, 1453, and 1454  
9 of title 10, United States Code, are applicable to a person  
10 making an election, and to an election, under this section  
11 in the same manner as if the election were made under  
12 the Survivor Benefit Plan or the Supplemental Survivor  
13 Benefit Plan, as the case may be.

14 (i) ADDITIONAL PREMIUM.—The Secretary of De-  
15 fense may require that the premium for a person making  
16 an election under subsection (a)(1) or (b) include, in addi-  
17 tion to the amount required under section 1452(a) of title  
18 10, United States Code, an amount determined under reg-  
19 ulations prescribed by the Secretary of Defense for the  
20 purposes of this subsection. Any such amount shall be  
21 stated as a percentage of the base amount of the person  
22 making the election and shall reflect the number of years  
23 that have elapsed since the person retired, but may not  
24 exceed 4.5 percent of that person's base amount.

1 (j) REPORT CONCERNING OPEN SEASON.—Not later  
2 than July 1, 2004, the Secretary of Defense shall submit  
3 to the Committees on Armed Services of the Senate and  
4 House of Representatives a report on the open season au-  
5 thorized by this section for the Survivor Benefit Plan. The  
6 report shall include the following:

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

9 (2) The Secretary's estimates of the costs asso-  
10 ciated with the open season, including any antici-  
11 pated effect of the open season on the actuarial sta-  
12 tus of the Department of Defense Military Retire-  
13 ment Fund.

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

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