

108TH CONGRESS
1ST SESSION

S. 1916

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 SENATE OF THE UNITED STATES

NOVEMBER 21, 2003

Ms. LANDRIEU introduced the following bill; which was read twice and 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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. FULL SBP SURVIVOR BENEFITS FOR SURVIVING**
 2 **SPOUSES OVER AGE 62.**

3 (a) PHASED INCREASE IN BASIC ANNUITY.—

4 (1) INCREASE TO 55 PERCENT.—Subsection
 5 (a)(1)(B)(i) of section 1451 of title 10, United
 6 States Code, is amended by striking “35 percent of
 7 the base amount.” and inserting “the product of the
 8 base amount and the percent applicable for the
 9 month. The percent applicable for a month is 35
 10 percent for months beginning before October 2005,
 11 40 percent for months beginning after September
 12 2005 and before October 2008, 45 percent for
 13 months beginning after September 2008, and 55
 14 percent for months beginning after September
 15 2014.”.

16 (2) RESERVE-COMPONENT ANNUITY.—Sub-
 17 section (a)(2)(B)(i)(I) of such section is amended by
 18 striking “35 percent” and inserting “the percent
 19 specified under paragraph (1)(B)(i) as being applica-
 20 ble for the month”.

21 (3) SPECIAL-ELIGIBILITY ANNUITY.—Sub-
 22 section (c)(1)(B)(i) of such section is amended—

23 (A) by striking “35 percent” and inserting
 24 “the applicable percent”; and

25 (B) by adding at the end the following:
 26 “The percent applicable for a month under the

1 preceding sentence is the percent specified
 2 under subsection (a)(1)(B)(i) as being applica-
 3 ble for the month.”.

4 (4) CONFORMING AMENDMENT.—The heading
 5 for subsection (d)(2)(A) of such section is amended
 6 to read as follows: “COMPUTATION OF
 7 ANNUITY.—”.

8 (b) PHASED ELIMINATION OF SUPPLEMENTAL AN-
 9 NUITY.—

10 (1) DECREASING PERCENTAGES.—Section
 11 1457(b) of title 10, United States Code, is amend-
 12 ed—

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

15 (B) by inserting after the first sentence
 16 the following: “The percent used for the com-
 17 putation shall be an even multiple of 5 percent
 18 and, whatever the percent specified in the elec-
 19 tion, may not exceed 20 percent for months be-
 20 ginning before October 2005, 15 percent for
 21 months beginning after September 2005 and
 22 before October 2008, and 10 percent for
 23 months beginning after September 2008.”.

1 (2) REPEAL OF PROGRAM IN 2014.—Effective
 2 on October 1, 2014, chapter 73 of such title is
 3 amended—

4 (A) by striking subchapter III; and

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

8 (c) RECOMPUTATION OF ANNUITIES.—

9 (1) REQUIREMENT FOR RECOMPUTATION.—Ef-
 10 fective on the first day of each month referred to in
 11 paragraph (2)—

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

22 (B) each supplemental survivor annuity
 23 under section 1457 of such title that com-
 24 menced before that month and is payable for
 25 that month shall be recomputed so as to be

1 equal to the amount that would be in effect if
 2 the percent applicable for that month under
 3 that section, as amended by this section, had
 4 been used for the initial computation of the
 5 supplemental survivor annuity.

6 (2) TIMES FOR RECOMPUTATION.—The require-
 7 ments for recomputation of annuities under para-
 8 graph (1) apply with respect to the following
 9 months:

10 (A) October 2005.

11 (B) October 2008.

12 (C) October 2014.

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

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

23 (a) PERSONS NOT CURRENTLY PARTICIPATING IN
 24 SURVIVOR BENEFIT PLAN.—

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

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

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

21 (A) is entitled to retired pay; or

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

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

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

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

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

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

24 (2) provide annuity coverage under the Plan for
25 the person's spouse or former spouse at a base

1 amount not less than the base amount provided for
 2 the dependent child.

3 (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO
 4 PARTICIPATE IN SUPPLEMENTAL SBP.—

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

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

22 (3) LIMITATION ON ELIGIBILITY FOR CERTAIN
 23 SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER
 24 ANNUITY COMPUTATION.—A person is not eligible to
 25 make an election under paragraph (1) if (as deter-

1 mined by the Secretary concerned) the annuity of a
2 spouse or former spouse beneficiary of that person
3 under the Survivor Benefit Plan is to be computed
4 under section 1451(e) of title 10, United States
5 Code. However, such a person may during the open
6 enrollment period waive the right to have that annu-
7 ity computed under such section 1451(e). Any such
8 election is irrevocable. A person making such a waiv-
9 er may make an election under paragraph (1) as in
10 the case of any other participant in the Survivor
11 Benefit Plan.

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

24 (e) EFFECTIVE DATE FOR ELECTIONS.—Any such
25 election shall be effective as of the first day of the first

1 calendar month following the month in which the election
2 is received by the Secretary concerned.

3 (f) OPEN ENROLLMENT PERIOD.—The open enroll-
4 ment period under this section shall be the one-year period
5 beginning on October 1, 2005.

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

16 (h) APPLICABILITY OF CERTAIN PROVISIONS OF
17 LAW.—The provisions of sections 1449, 1453, and 1454
18 of title 10, United States Code, are applicable to a person
19 making an election, and to an election, under this section
20 in the same manner as if the election were made under
21 the Survivor Benefit Plan or the Supplemental Survivor
22 Benefit Plan, as the case may be.

23 (i) ADDITIONAL PREMIUM.—The Secretary of De-
24 fense may require that the premium for a person making
25 an election under subsection (a)(1) or (b) include, in addi-

1 tion to the amount required under section 1452(a) of title
2 10, United States Code, an amount determined under reg-
3 ulations prescribed by the Secretary of Defense for the
4 purposes of this subsection. Any such amount shall be
5 stated as a percentage of the base amount of the person
6 making the election and shall reflect the number of years
7 that have elapsed since the person retired, but may not
8 exceed 4.5 percent of that person's base amount.

9 (j) REPORT CONCERNING OPEN SEASON.—Not later
10 than July 1, 2005, the Secretary of Defense shall submit
11 to the Committees on Armed Services of the Senate and
12 the House of Representatives a report on the open season
13 authorized by this section for the Survivor Benefit Plan.
14 The report shall include the following:

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

17 (2) The Secretary's estimates of the costs asso-
18 ciated with the open season, including any antici-
19 pated effect of the open season on the actuarial sta-
20 tus of the Department of Defense Military Retire-
21 ment Fund.

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

