

117TH CONGRESS  
2D SESSION

# S. 3659

To exempt premium pay received by semi-retired workers during the COVID–19 pandemic from the Social Security retirement earnings test.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2022

Ms. COLLINS (for herself, Mr. BROWN, Mr. CASSIDY, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To exempt premium pay received by semi-retired workers during the COVID–19 pandemic from the Social Security retirement earnings test.

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 “Supporting Essential  
5 Workers in Retirement Act”.

1 **SEC. 2. EXEMPTION OF PREMIUM PAY RECEIVED BY WORK-**  
2 **ERS DURING THE COVID-19 PANDEMIC FROM**  
3 **THE SOCIAL SECURITY RETIREMENT EARN-**  
4 **INGS TEST.**

5 (a) IN GENERAL.—For purposes of subsection (b) of  
6 section 203 of the Social Security Act (42 U.S.C. 403),  
7 the amount of any additional earnings received by an indi-  
8 vidual that is attributable to the individual’s receipt of  
9 premium pay shall not be included in the determination  
10 of the individual’s excess earnings under subsection (f)(3)  
11 of such section for any taxable year.

12 (b) DEFINITIONS.—In this section:

13 (1) COVID-19 EMERGENCY PERIOD.—The  
14 term “COVID-19 emergency period” means the pe-  
15 riod that begins on March 13, 2020, and ends on  
16 December 31, 2021.

17 (2) ESSENTIAL WORK.—The term “essential  
18 work” means any work that—

19 (A) is performed during the COVID-19  
20 emergency period; and

21 (B) is needed to maintain continuity of op-  
22 erations of essential critical infrastructure sec-  
23 tors and additional sectors as each Governor of  
24 a State or territory, or each Tribal government,  
25 may have designated as critical to protect the  
26 health and well-being of the residents of their

1 State, territory, or Tribal government pursuant  
2 to section 602(g)(2) of the Social Security Act  
3 (42 U.S.C. 802(g)(2)).

4 (3) PREMIUM PAY.—The term “premium pay”  
5 means—

6 (A) a higher rate of pay to workers, be-  
7 yond normal compensation, for performing es-  
8 sential work during the COVID–19 emergency  
9 period; or

10 (B) compensation paid to a worker for  
11 hours of essential work performed in addition to  
12 the worker’s normal work schedule that results  
13 in the worker receiving a higher average weekly  
14 compensation compared to the average weekly  
15 compensation received by the worker for work  
16 performed in the same position for the same  
17 employer during the period that begins on Jan-  
18 uary 1, 2020, and ends on March 13, 2020, or,  
19 if less, the average weekly compensation re-  
20 ceived by the worker for work performed in the  
21 same position for the same employer during any  
22 portion of such period that is not less than 14  
23 consecutive days.

24 (c) EMPLOYER VERIFICATION.—

1           (1) IN GENERAL.—Not later than 30 days after  
2 the date of the enactment of this Act, the Commis-  
3 sioner of Social Security shall issue guidance pro-  
4 viding for the verification by employers of record for  
5 employees who performed essential work during the  
6 COVID–19 emergency period of premium pay dis-  
7 bursed to such employees using Form SSA–131,  
8 Employer Report of Special Payments.

9           (2) NOTICE TO EMPLOYEES.—Not later than  
10 90 days after the date of issuance of such guidance,  
11 employers shall inform employees who performed es-  
12 sential work during the COVID–19 emergency pe-  
13 riod of their eligibility to elect to have their premium  
14 pay excluded in the determination of the individual’s  
15 excess earnings under section 203(f)(3) of the Social  
16 Security Act (42 U.S.C. 403(f)(3)) for any taxable  
17 year.

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