

112TH CONGRESS
2D SESSION

S. 3651

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to make improvements in the old-age, survivors, and disability insurance program, to provide for cash relief for years for which annual COLAs do not take effect under certain cash benefit programs, and to provide for Social Security benefit protection.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2012

Mr. BEGICH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to make improvements in the old-age, survivors, and disability insurance program, to provide for cash relief for years for which annual COLAs do not take effect under certain cash benefit programs, and to provide for Social Security benefit protection.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may cited as the “Pro-
5 tecting and Preserving Social Security Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—COST-OF-LIVING INCREASES

Sec. 101. Consumer price index for elderly consumers.

Sec. 102. Computation of cost-of-living increases.

TITLE II—CONTRIBUTION AND BENEFIT FAIRNESS

Sec. 201. Determination of wages and self-employment income above contribu-
 tion and benefit base after 2012.

Sec. 202. Inclusion of surplus earnings in social security benefit formula.

3 **TITLE I—COST-OF-LIVING** 4 **INCREASES**

5 **SEC. 101. CONSUMER PRICE INDEX FOR ELDERLY CON-** 6 **SUMERS.**

7 (a) IN GENERAL.—The Bureau of Labor Statistics
 8 of the Department of Labor shall prepare and publish an
 9 index for each calendar month to be known as the “Con-
 10 sumer Price Index for Elderly Consumers” that indicates
 11 changes over time in expenditures for consumption which
 12 are typical for individuals in the United States who are
 13 62 years of age or older.

14 (b) EFFECTIVE DATE.—Subsection (a) shall apply
 15 with respect to calendar months ending on or after July
 16 31 of the calendar year following the calendar year in
 17 which this Act is enacted.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 19 are authorized to be appropriated such sums as are nec-
 20 essary to carry out the provisions of this section.

1 **SEC. 102. COMPUTATION OF COST-OF-LIVING INCREASES.**

2 (a) IN GENERAL.—Section 215(i) of the Social Secu-
 3 rity Act (42 U.S.C. 415(i)) is amended—

4 (1) in paragraph (1)(G), by inserting before the
 5 period the following: “, and, solely with respect to
 6 any monthly insurance benefit payable under this
 7 title to an individual who has attained age 62, effec-
 8 tive for adjustments under this subsection to the pri-
 9 mary insurance amount on which such benefit is
 10 based (or to any such benefit under section 227 or
 11 228) occurring after such individual attains such
 12 age, the applicable Consumer Price Index shall be
 13 deemed to be the Consumer Price Index for Elderly
 14 Consumers and such primary insurance amount
 15 shall be deemed adjusted under this subsection using
 16 such Index”; and

17 (2) in paragraph (4), by striking “and by sec-
 18 tion 9001” and inserting “, by section 9001”, and
 19 by inserting after “1986,” the following: “and by
 20 section 102 of the Protecting and Preserving Social
 21 Security Act,”.

22 (b) CONFORMING AMENDMENTS IN APPLICABLE
 23 FORMER LAW.—Section 215(i)(1)(C) of such Act, as in
 24 effect in December 1978 and applied in certain cases
 25 under the provisions of such Act in effect after December
 26 1978, is amended by inserting before the period the fol-

1 lowing: “, and, solely with respect to any monthly insur-
 2 ance benefit payable under this title to an individual who
 3 has attained age 62, effective for adjustments under this
 4 subsection to the primary insurance amount on which such
 5 benefit is based (or to any such benefit under section 227
 6 or 228) occurring after such individual attains such age,
 7 the applicable Consumer Price Index shall be deemed to
 8 be the Consumer Price Index for Elderly Consumers and
 9 such primary insurance amount shall be deemed adjusted
 10 under this subsection using such Index”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 subsection (a) shall apply to determinations made with re-
 13 spect to cost-of-living computation quarters (as defined in
 14 section 215(i)(1)(B) of the Social Security Act (42 U.S.C.
 15 415(i)(1)(B))) ending on or after September 30 of the sec-
 16 ond calendar year following the calendar year in which this
 17 Act is enacted.

18 **TITLE II—CONTRIBUTION AND** 19 **BENEFIT FAIRNESS**

20 **SEC. 201. DETERMINATION OF WAGES AND SELF-EMPLOY-** 21 **MENT INCOME ABOVE CONTRIBUTION AND** 22 **BENEFIT BASE AFTER 2012.**

23 (a) DETERMINATION OF WAGES ABOVE CONTRIBU-
 24 TION AND BENEFIT BASE AFTER 2012.—

1 (1) AMENDMENTS TO THE INTERNAL REVENUE
 2 CODE OF 1986.—Section 3121 of the Internal Rev-
 3 enue Code of 1986 is amended—

4 (A) in subsection (a)(1), by inserting “the
 5 applicable percentage (determined under sub-
 6 section (c)(1)) of” before “that part of the re-
 7 muneration”; and

8 (B) in subsection (c), by striking “(c) IN-
 9 CLUDED AND EXCLUDED SERVICE.—For pur-
 10 poses of this chapter, if” and inserting the fol-
 11 lowing:

12 “(c) SPECIAL RULES FOR WAGES AND EMPLOY-
 13 MENT.—

14 “(1) APPLICABLE PERCENTAGE OF REMUNERA-
 15 TION IN DETERMINING WAGES.—For purposes of
 16 paragraph (1) of subsection (a), the applicable per-
 17 centage for a calendar year, in connection with any
 18 calendar year referred to in such subparagraph,
 19 shall be the percentage determined in accordance
 20 with the following table:

“In the case of:	The applicable percentage is:
Calendar year 2013	86%
Calendar year 2014	71%
Calendar year 2015	57%
Calendar year 2016	43%
Calendar year 2017	29%
Calendar year 2018	14%
Calendar years after 2018	0%.

1 “(2) INCLUDED AND EXCLUDED SERVICE.—For
2 purposes of this chapter, if.”.

3 (2) AMENDMENTS TO THE SOCIAL SECURITY
4 ACT.—Section 209 of the Social Security Act (42
5 U.S.C. 409) is amended—

6 (A) in subsection (a)(1)(I)—

7 (i) by inserting “and before 2013”
8 after “1974”; and

9 (ii) by inserting “and” after the semi-
10 colon;

11 (B) in subsection (a)(1), by adding at the
12 end the following new subparagraph:

13 “(J) The applicable percentage (deter-
14 mined under subsection (I)) of that part of re-
15 muneration which, after remuneration (other
16 than remuneration referred to in the succeeding
17 subsections of this section) equal to the con-
18 tribution and benefit base (determined under
19 section 230) with respect to employment has
20 been paid to an individual during any calendar
21 year after 2012 with respect to which such con-
22 tribution and benefit base is effective, is paid to
23 such individual during such calendar year;”;
24 and

1 (C) by adding at the end the following new
 2 subsection:

3 “(l) For purposes of subparagraph (J) of subsection
 4 (a)(1), the applicable percentage for a calendar year, in
 5 connection with any calendar year referred to in such sub-
 6 paragraph, shall be the percentage determined in accord-
 7 ance with the following table:

“In the case of:	The applicable percentage is:
Calendar year 2013	86%
Calendar year 2014	71%
Calendar year 2015	57%
Calendar year 2016	43%
Calendar year 2017	29%
Calendar year 2018	14%
Calendar years after 2018	0%.”.

8 (3) EFFECTIVE DATE.—The amendments made
 9 by this subsection shall apply with respect to remu-
 10 nation paid in calendar years after 2012.

11 (b) DETERMINATION OF SELF-EMPLOYMENT IN-
 12 COME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER
 13 2012.—

14 (1) AMENDMENTS TO THE INTERNAL REVENUE
 15 CODE OF 1986.—Section 1402 of the Internal Rev-
 16 enue Code of 1986 is amended—

17 (A) in subsection (b)(1), by inserting “an
 18 amount equal to the applicable percentage (as
 19 determined under subsection (d)(2)) of” before
 20 “that part of the net earnings from self-employ-
 21 ment”; and

1 (B) in subsection (d)—

2 (i) by striking “(d) EMPLOYEE AND
3 WAGES.—The term” and inserting the fol-
4 lowing:

5 “(d) RULES AND DEFINITIONS.—

6 “(1) EMPLOYEE AND WAGES.—The term”; and

7 (ii) by adding at the end the fol-
8 lowing:

9 “(2) APPLICABLE PERCENTAGE OF NET EARN-
10 INGS FROM SELF-EMPLOYMENT IN DETERMINING
11 SELF-EMPLOYMENT INCOME.—For purposes of para-
12 graph (1) of subsection (b), the applicable percent-
13 age for a taxable year beginning in any calendar
14 year referred to in such paragraph shall be the per-
15 centage determined in accordance with the following
16 table:

“In the case of:	The applicable percentage is:
Calendar year 2013	86%
Calendar year 2014	71%
Calendar year 2015	57%
Calendar year 2016	43%
Calendar year 2017	29%
Calendar year 2018	14%
Calendar years after 2018	0%.”.

17 (2) AMENDMENTS TO THE SOCIAL SECURITY
18 ACT.—Section 211 of the Social Security Act (42
19 U.S.C. 411) is amended—

20 (A) in subsection (b)(1)(I)—

1 (i) by striking “or” after the semi-
 2 colon; and

3 (ii) by inserting “and before 2013”
 4 after “1974”;

5 (B) in subsection (b)—

6 (i) by redesignating paragraph (2) as
 7 paragraph (3); and

8 (ii) by inserting after paragraph (1)
 9 the following:

10 “(2) For any taxable year beginning in any cal-
 11 endar year after 2012, an amount equal to the appli-
 12 cable percentage (as determined under subsection
 13 (l)) of that part of net earnings from self-employ-
 14 ment which is in excess of (A) an amount equal to
 15 the contribution and benefit base (determined under
 16 section 230) that is effective for such calendar year,
 17 minus (B) the amount of the wages paid to such in-
 18 dividual during such taxable year; or”; and

19 (C) by adding at the end the following:

20 “(l) For purposes of paragraph (2) of subsection (b),
 21 the applicable percentage for a taxable year beginning in
 22 any calendar year referred to in such paragraph, shall be
 23 the percentage determined in accordance with the fol-
 24 lowing table:

“In the case of:	The applicable percentage is:
Calendar year 2013	86%
Calendar year 2014	71%
Calendar year 2015	57%
Calendar year 2016	43%
Calendar year 2017	29%
Calendar year 2018	14%
Calendar years after 2018	0%.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply with respect to taxable
3 years beginning during or after calendar year 2013.

4 **SEC. 202. INCLUSION OF SURPLUS EARNINGS IN SOCIAL SE-**
5 **CURITY BENEFIT FORMULA.**

6 (a) INCLUSION OF SURPLUS AVERAGE INDEXED
7 MONTHLY EARNINGS IN DETERMINATION OF PRIMARY
8 INSURANCE AMOUNTS.—

9 (1) IN GENERAL.—Section 215(a)(1)(A) of the
10 Social Security Act (42 U.S.C. 415(a)(1)(A)) is
11 amended—

12 (A) in clauses (i), (ii), and (iii), by insert-
13 ing “basic” before “average indexed monthly
14 earnings” each place it appears;

15 (B) in clause (ii), by striking “and” at the
16 end; and

17 (C) by inserting after clause (iii) the fol-
18 lowing new clauses:

19 “(iv) 3 percent of the individual’s surplus aver-
20 age indexed monthly earnings to the extent such
21 surplus average indexed monthly earnings do not ex-

ceed the excess of the amount established for purposes of this clause by subparagraph (B) over $\frac{1}{12}$ of the contribution and benefit base for the last of such individual's computation base years, and

“(v) 0.25 percent of the sum of the individual's surplus average indexed monthly earnings plus $\frac{1}{12}$ of the contribution and benefit base for the last of such individual's computation base years, to the extent such sum exceeds the amount established for purposes of clause (iv) by subparagraph (B).”.

(2) BEND POINT FOR SURPLUS EARNINGS.—
Section 215(a)(1)(B) of such Act (42 U.S.C. 415(a)(1)(B)) is amended—

(A) in clause (ii), by striking “the amounts so established” and inserting “the amounts established for purposes of clauses (i) and (ii) of subparagraph (A)”;

(B) by redesignating clause (iii) as clause (v);

(C) in clause (v) (as redesignated), by inserting “or (iv)” after “clause (ii)”;

(D) by inserting after clause (ii) the following new clauses:

“(iii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before

1 becoming eligible for such benefits), in the calendar year
 2 2013, the amount established for purposes of clause (iv)
 3 of subparagraph (A) shall be \$11,933.

4 “(iv) For individuals who initially become eligible for
 5 old-age or disability insurance benefits, or who die (before
 6 becoming eligible for such benefits), in any calendar year
 7 after 2013, the amount established for purposes of clause
 8 (iv) of subparagraph (A) shall equal the product of the
 9 amount established with respect to the calendar year 2013
 10 under clause (iii) of this subparagraph and the quotient
 11 obtained by dividing—

12 “(I) the national average wage index (as de-
 13 fined in section 209(k)(1)) for the second calendar
 14 year preceding the calendar year for which the de-
 15 termination is made, by

16 “(II) the national average wage index (as so de-
 17 fined) for 2011.”.

18 (b) BASIC AIME AND SURPLUS AIME.—

19 (1) BASIC AIME.—Section 215(b)(1) of such
 20 Act (42 U.S.C. 415(b)(1)) is amended—

21 (A) by inserting “basic” before “average”;
 22 and

23 (B) in subparagraph (A), by striking
 24 “paragraph (3)” and inserting “paragraph
 25 (3)(A)” and by inserting before the comma the

1 following: “to the extent such total does not ex-
 2 ceed the contribution and benefit base for the
 3 applicable year”.

4 (2) SURPLUS AIME.—

5 (A) IN GENERAL.—Section 215(b)(1) of
 6 such Act (as amended by paragraph (1)) is
 7 amended—

8 (i) by redesignating subparagraphs
 9 (A) and (B) as clauses (i) and (ii), respec-
 10 tively;

11 (ii) by inserting “(A)” after “(b)(1)”;
 12 and

13 (iii) by adding at the end the fol-
 14 lowing new subparagraph:

15 “(B)(i) An individual’s surplus average indexed
 16 monthly earnings shall be equal to the quotient obtained
 17 by dividing—

18 “(I) the total (after adjustment under para-
 19 graph (3)(B)) of such individual’s surplus earnings
 20 (determined under clause (ii)) for such individual’s
 21 benefit computation years (determined under para-
 22 graph (2)), by

23 “(II) the number of months in those years.

24 “(ii) For purposes of clause (i) and paragraph (3)(B),
 25 an individual’s surplus earnings for a benefit computation

1 year are the total of such individual's wages paid in and
 2 self-employment income credited to such benefit computa-
 3 tion year, to the extent such total (before adjustment
 4 under paragraph (3)(B)) exceeds the contribution and
 5 benefit base for such year.”.

6 (B) CONFORMING AMENDMENT.—The
 7 heading for section 215(b) of such Act is
 8 amended by striking “Average Indexed Monthly
 9 Earnings” and inserting “Basic Average In-
 10 dexed Monthly Earnings; Surplus Average In-
 11 dexed Monthly Earnings”.

12 (3) ADJUSTMENT OF SURPLUS EARNINGS FOR
 13 PURPOSES OF DETERMINING SURPLUS AIME.—Sec-
 14 tion 215(b)(3) of such Act (42 U.S.C. 415(b)(3)) is
 15 amended—

16 (A) in subparagraph (A), by striking “sub-
 17 paragraph (B)” and inserting “subparagraph
 18 (C)” and by inserting “and determination of
 19 basic average indexed monthly income” after
 20 “paragraph (2)”;

21 (B) by redesignating subparagraph (B) as
 22 subparagraph (C); and

23 (C) by inserting after subparagraph (A)
 24 the following new subparagraph:

1 “(B) For purposes of determining under paragraph
 2 (1)(B) an individual’s surplus average indexed monthly
 3 earnings, the individual’s surplus earnings (described in
 4 paragraph (2)(B)(ii)) for a benefit computation year shall
 5 be deemed to be equal to the product of—

6 “(i) the individual’s surplus earnings for such
 7 year (as determined without regard to this subpara-
 8 graph), and

9 “(ii) the quotient described in subparagraph
 10 (A)(ii).”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply with respect to individuals who ini-
 13 tially become eligible (within the meaning of section
 14 215(a)(3)(B) of the Social Security Act) for old-age or dis-
 15 ability insurance benefits under title II of the Social Secu-
 16 rity Act, or who die (before becoming eligible for such ben-
 17 efits), in any calendar year after 2012.

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