

113TH CONGRESS  
1ST SESSION

# H. R. 649

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2013

Mr. DEUTCH (for himself, Ms. KAPTUR, Ms. SCHAKOWSKY, Ms. PINGREE of Maine, Mr. CICILLINE, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

4 (b) TABLE OF CONTENTS.—The table of contents of  
5 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 2013.

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

6 **TITLE I—COST-OF-LIVING**  
7 **INCREASES**

8 **SEC. 101. CONSUMER PRICE INDEX FOR ELDERLY CON-**  
9 **SUMERS.**

10 (a) IN GENERAL.—The Bureau of Labor Statistics  
11 of the Department of Labor shall prepare and publish an  
12 index for each calendar month to be known as the “Con-  
13 sumer Price Index for Elderly Consumers” that indicates  
14 changes over time in expenditures for consumption which  
15 are typical for individuals in the United States who are  
16 62 years of age or older.

17 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
18 with respect to calendar months ending on or after July  
19 31 of the calendar year following the calendar year in  
20 which this Act is enacted.

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

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

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

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

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

1       (b) CONFORMING AMENDMENTS IN APPLICABLE  
2 FORMER LAW.—Section 215(i)(1)(C) of such Act, as in  
3 effect in December 1978 and applied in certain cases  
4 under the provisions of such Act in effect after December  
5 1978, is amended by inserting before the period the fol-  
6 lowing: “, and, solely with respect to any monthly insur-  
7 ance benefit payable under this title to an individual who  
8 has attained age 62, effective for adjustments under this  
9 subsection to the primary insurance amount on which such  
10 benefit is based (or to any such benefit under section 227  
11 or 228) occurring after such individual attains such age,  
12 the applicable Consumer Price Index shall be deemed to  
13 be the Consumer Price Index for Elderly Consumers and  
14 such primary insurance amount shall be deemed adjusted  
15 under this subsection using such Index”.

16       (c) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall apply to determinations made with re-  
18 spect to cost-of-living computation quarters (as defined in  
19 section 215(i)(1)(B) of the Social Security Act (42 U.S.C.  
20 415(i)(1)(B))) ending on or after September 30 of the sec-  
21 ond calendar year following the calendar year in which this  
22 Act is enacted.

1     **TITLE II—CONTRIBUTION AND**  
 2             **BENEFIT FAIRNESS**

3     **SEC. 201. DETERMINATION OF WAGES AND SELF-EMPLOY-**  
 4             **MENT INCOME ABOVE CONTRIBUTION AND**  
 5             **BENEFIT BASE AFTER 2013.**

6             (a) DETERMINATION OF WAGES ABOVE CONTRIBU-  
 7     TION AND BENEFIT BASE AFTER 2013.—

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

11                     (A) in subsection (a)(1), by inserting “the  
 12                     applicable percentage (determined under sub-  
 13                     section (c)(1)) of” before “that part of the re-  
 14                     muneration”; and

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

19             “(c) SPECIAL RULES FOR WAGES AND EMPLOY-  
 20    MENT.—

21                     “(1) APPLICABLE PERCENTAGE OF REMUNERA-  
 22                     TION IN DETERMINING WAGES.—For purposes of  
 23                     paragraph (1) of subsection (a), the applicable per-  
 24                     centage for a calendar year, in connection with any  
 25                     calendar year referred to in such subparagraph,

1 shall be the percentage determined in accordance  
 2 with the following table:

| <b>“In the case of:</b>         | <b>The applicable percentage is:</b> |
|---------------------------------|--------------------------------------|
| Calendar year 2014 .....        | 86%                                  |
| Calendar year 2015 .....        | 71%                                  |
| Calendar year 2016 .....        | 57%                                  |
| Calendar year 2017 .....        | 43%                                  |
| Calendar year 2018 .....        | 29%                                  |
| Calendar year 2019 .....        | 14%                                  |
| Calendar years after 2019 ..... | 0%.                                  |

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

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

8 (A) in subsection (a)(1)(I)—

9 (i) by inserting “and before 2014”  
 10 after “1974”; and

11 (ii) by inserting “and” after the semi-  
 12 colon;

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

15 “(J) The applicable percentage (deter-  
 16 mined under subsection (I)) of that part of re-  
 17 munerat ion which, after remuneration (other  
 18 than remuneration referred to in the succeeding  
 19 subsections of this section) equal to the con-  
 20 tribution and benefit base (determined under  
 21 section 230) with respect to employment has

1           been paid to an individual during any calendar  
 2           year after 2013 with respect to which such con-  
 3           tribution and benefit base is effective, is paid to  
 4           such individual during such calendar year;”;  
 5           and

6                   (C) by adding at the end the following new  
 7           subsection:

8           “(1) For purposes of subparagraph (J) of subsection  
 9   (a)(1), the applicable percentage for a calendar year, in  
 10   connection with any calendar year referred to in such sub-  
 11   paragraph, shall be the percentage determined in accord-  
 12   ance with the following table:

| <b>“In the case of:</b>         | <b>The applicable<br/>percentage is:</b> |
|---------------------------------|------------------------------------------|
| Calendar year 2014 .....        | 86%                                      |
| Calendar year 2015 .....        | 71%                                      |
| Calendar year 2016 .....        | 57%                                      |
| Calendar year 2017 .....        | 43%                                      |
| Calendar year 2018 .....        | 29%                                      |
| Calendar year 2019 .....        | 14%                                      |
| Calendar years after 2019 ..... | 0%.”.                                    |

13           (3) EFFECTIVE DATE.—The amendments made  
 14           by this subsection shall apply with respect to remu-  
 15           neration paid in calendar years after 2013.

16           (b) DETERMINATION OF SELF-EMPLOYMENT IN-  
 17   COME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER  
 18   2013.—

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

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

6 (B) in subsection (d)—

7 (i) by striking “(d) EMPLOYEE AND  
 8 WAGES.—The term” and inserting the fol-  
 9 lowing:

10 “(d) RULES AND DEFINITIONS.—

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

12 (ii) by adding at the end the fol-  
 13 lowing:

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

| “In the case of:                | The applicable<br>percentage is: |
|---------------------------------|----------------------------------|
| Calendar year 2014 .....        | 86%                              |
| Calendar year 2015 .....        | 71%                              |
| Calendar year 2016 .....        | 57%                              |
| Calendar year 2017 .....        | 43%                              |
| Calendar year 2018 .....        | 29%                              |
| Calendar year 2019 .....        | 14%                              |
| Calendar years after 2019 ..... | 0%.”.                            |

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

4           (A) in subsection (b)(1)(I)—

5               (i) by striking “or” after the semi-  
6       colon; and

7               (ii) by inserting “and before 2014”  
8       after “1974”;

9           (B) in subsection (b)—

10               (i) by redesignating paragraph (2) as  
11       paragraph (3); and

12               (ii) by inserting after paragraph (1)  
13       the following:

14           “(2) For any taxable year beginning in any cal-  
15       endar year after 2013, an amount equal to the appli-  
16       cable percentage (as determined under subsection  
17       (l)) of that part of net earnings from self-employ-  
18       ment which is in excess of (A) an amount equal to  
19       the contribution and benefit base (determined under  
20       section 230) that is effective for such calendar year,  
21       minus (B) the amount of the wages paid to such in-  
22       dividual during such taxable year; or”; and

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

24           “(l) For purposes of paragraph (2) of subsection (b),  
25       the applicable percentage for a taxable year beginning in

1 any calendar year referred to in such paragraph, shall be  
 2 the percentage determined in accordance with the fol-  
 3 lowing table:

| <b>“In the case of:</b>         | <b>The applicable percentage is:</b> |
|---------------------------------|--------------------------------------|
| Calendar year 2014 .....        | 86%                                  |
| Calendar year 2015 .....        | 71%                                  |
| Calendar year 2016 .....        | 57%                                  |
| Calendar year 2017 .....        | 43%                                  |
| Calendar year 2018 .....        | 29%                                  |
| Calendar year 2019 .....        | 14%                                  |
| Calendar years after 2019 ..... | 0%.”.                                |

4 (3) EFFECTIVE DATE.—The amendments made  
 5 by this subsection shall apply with respect to taxable  
 6 years beginning during or after calendar year 2014.

7 **SEC. 202. INCLUSION OF SURPLUS EARNINGS IN SOCIAL SE-**  
 8 **CURITY BENEFIT FORMULA.**

9 (a) INCLUSION OF SURPLUS AVERAGE INDEXED  
 10 MONTHLY EARNINGS IN DETERMINATION OF PRIMARY  
 11 INSURANCE AMOUNTS.—

12 (1) IN GENERAL.—Section 215(a)(1)(A) of the  
 13 Social Security Act (42 U.S.C. 415(a)(1)(A)) is  
 14 amended—

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

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

20 (C) by inserting after clause (iii) the fol-  
 21 lowing new clauses:

1           “(iv) 3 percent of the individual’s surplus aver-  
 2           age indexed monthly earnings to the extent such  
 3           surplus average indexed monthly earnings do not ex-  
 4           ceed the excess of the amount established for pur-  
 5           poses of this clause by subparagraph (B) over  $\frac{1}{12}$   
 6           of the contribution and benefit base for the last of  
 7           such individual’s computation base years, and

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

14           (2) BEND POINT FOR SURPLUS EARNINGS.—  
 15          Section 215(a)(1)(B) of such Act (42 U.S.C.  
 16          415(a)(1)(B)) is amended—

17                   (A) in clause (ii), by striking “the amounts  
 18                   so established” and inserting “the amounts es-  
 19                   tablished for purposes of clauses (i) and (ii) of  
 20                   subparagraph (A)”;

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

23                   (C) in clause (v) (as redesignated), by in-  
 24                   serting “or (iv)” after “clause (ii)”; and

1 (D) by inserting after clause (ii) the fol-  
2 lowing new clauses:

3 “(iii) For individuals who initially become eligible for  
4 old-age or disability insurance benefits, or who die (before  
5 becoming eligible for such benefits), in the calendar year  
6 2014, the amount established for purposes of clause (iv)  
7 of subparagraph (A) shall be \$11,358.

8 “(iv) For individuals who initially become eligible for  
9 old-age or disability insurance benefits, or who die (before  
10 becoming eligible for such benefits), in any calendar year  
11 after 2014, the amount established for purposes of clause  
12 (iv) of subparagraph (A) shall equal the product of the  
13 amount established with respect to the calendar year 2014  
14 under clause (iii) of this subparagraph and the quotient  
15 obtained by dividing—

16 “(I) the national average wage index (as de-  
17 fined in section 209(k)(1)) for the second calendar  
18 year preceding the calendar year for which the de-  
19 termination is made, by

20 “(II) the national average wage index (as so de-  
21 fined) for 2012.”.

22 (b) BASIC AIME AND SURPLUS AIME.—

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

1 (A) by inserting “basic” before “average”;

2 and

3 (B) in subparagraph (A), by striking  
4 “paragraph (3)” and inserting “paragraph  
5 (3)(A)” and by inserting before the comma the  
6 following: “to the extent such total does not ex-  
7 ceed the contribution and benefit base for the  
8 applicable year”.

9 (2) SURPLUS AIME.—

10 (A) IN GENERAL.—Section 215(b)(1) of  
11 such Act (as amended by paragraph (1)) is  
12 amended—

13 (i) by redesignating subparagraphs  
14 (A) and (B) as clauses (i) and (ii), respec-  
15 tively;

16 (ii) by inserting “(A)” after “(b)(1)”;

17 and

18 (iii) by adding at the end the fol-  
19 lowing new subparagraph:

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

23 “(I) the total (after adjustment under para-  
24 graph (3)(B)) of such individual’s surplus earnings  
25 (determined under clause (ii)) for such individual’s

1 benefit computation years (determined under para-  
 2 graph (2)), by

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

4 “(ii) For purposes of clause (i) and paragraph (3)(B),  
 5 an individual’s surplus earnings for a benefit computation  
 6 year are the total of such individual’s wages paid in and  
 7 self-employment income credited to such benefit computa-  
 8 tion year, to the extent such total (before adjustment  
 9 under paragraph (3)(B)) exceeds the contribution and  
 10 benefit base for such year.”.

11 (B) CONFORMING AMENDMENT.—The  
 12 heading for section 215(b) of such Act is  
 13 amended by striking “Average Indexed Monthly  
 14 Earnings” and inserting “Basic Average In-  
 15 dexed Monthly Earnings; Surplus Average In-  
 16 dexed Monthly Earnings”.

17 (3) ADJUSTMENT OF SURPLUS EARNINGS FOR  
 18 PURPOSES OF DETERMINING SURPLUS AIME.—Sec-  
 19 tion 215(b)(3) of such Act (42 U.S.C. 415(b)(3)) is  
 20 amended—

21 (A) in subparagraph (A), by striking “sub-  
 22 paragraph (B)” and inserting “subparagraph  
 23 (C)” and by inserting “and determination of  
 24 basic average indexed monthly income” after  
 25 “paragraph (2)”;

1 (B) by redesignating subparagraph (B) as  
2 subparagraph (C); and

3 (C) by inserting after subparagraph (A)  
4 the following new subparagraph:

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

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

13 “(ii) the quotient described in subparagraph  
14 (A)(ii).”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply with respect to individuals who ini-  
17 tially become eligible (within the meaning of section  
18 215(a)(3)(B) of the Social Security Act) for old-age or dis-  
19 ability insurance benefits under title II of the Social Secu-  
20 rity Act, or who die (before becoming eligible for such ben-  
21 efits), in any calendar year after 2013.

○