

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5834

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

JULY 22, 2010

Mr. DEUTCH introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor, Rules, Transportation and Infrastructure, and Veterans' Affairs, 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 “Pre-  
3 serving Our Promise to Seniors 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—GUARANTEED SUPPLEMENTAL PAYMENT**

Sec. 201. Relief payments to recipients of social security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.

**TITLE III—CONTRIBUTION AND BENEFIT FAIRNESS**

Sec. 301. Determination of wages and self-employment income above contribu-  
tion and benefit base after 2010.

Sec. 302. Additional bend points in social security benefit formula.

**TITLE IV—SOCIAL SECURITY BENEFIT PROTECTION**

Sec. 401. Point of order against privatization of Social Security or reductions  
in Social Security benefits.

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.

1 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
2 with respect to calendar months ending on or after July  
3 31 of the calendar year following the calendar year in  
4 which this Act is enacted.

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

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

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

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

24 (2) in paragraph (4), by striking “and by sec-  
25 tion 9001” and inserting “, by section 9001”, and

1 by inserting after “1986,” the following: “and by  
2 section 102 of the Preserving Our Promise to Sen-  
3 iors Act Act,”.

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

19 (c) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall apply to determinations made with re-  
21 spect to cost-of-living computation quarters (as defined in  
22 section 215(i)(1)(B) of the Social Security Act (42 U.S.C.  
23 415(i)(1)(B))) ending on or after September 30 of the sec-  
24 ond calendar year following the calendar year in which this  
25 Act is enacted.

1                   **TITLE II—GUARANTEED**  
2                   **SUPPLEMENTAL PAYMENT**

3 **SEC. 201. RELIEF PAYMENTS TO RECIPIENTS OF SOCIAL SE-**  
4                   **CURITY, SUPPLEMENTAL SECURITY INCOME,**  
5                   **RAILROAD RETIREMENT BENEFITS, AND VET-**  
6                   **ERANS DISABILITY COMPENSATION OR PEN-**  
7                   **SION BENEFITS.**

8           (a) **AUTHORITY TO MAKE PAYMENTS.—**

9                   (1) **ELIGIBILITY.—**

10                           (A) **IN GENERAL.—**The Secretary of the  
11                   Treasury shall disburse a cash payment equal  
12                   to \$250 (or such greater amount as may take  
13                   effect under paragraph (2)), for each non-  
14                   COLA year of a program providing benefit pay-  
15                   ments described in clause (i), (ii), or (iii) of  
16                   subparagraph (C) or in subparagraph (D), to  
17                   each individual who, for any month during such  
18                   year, is entitled to such a benefit payment  
19                   under such program.

20                           (B) **NON-COLA YEAR.—**For purposes of  
21                   this section, the term “non-COLA year” means,  
22                   in connection with a program referred to in  
23                   subparagraph (A), a 12-month period ending  
24                   with or during 2010 for which—

1 (i) a cost-of-living adjustment is gen-  
2 erally provided under such program in re-  
3 lation to an index; and

4 (ii) such an adjustment does not take  
5 effect by reason of the performance of such  
6 index.

7 (C) BENEFIT PAYMENT DESCRIBED.—For  
8 purposes of subparagraph (A):

9 (i) TITLE II BENEFIT.—A benefit pay-  
10 ment described in this clause is a monthly  
11 insurance benefit payable (without regard  
12 to sections 202(j)(1) and 223(b) of the So-  
13 cial Security Act (42 U.S.C. 402(j)(1),  
14 423(b)) under—

15 (I) section 202(a) of such Act  
16 (42 U.S.C. 402(a));

17 (II) section 202(b) of such Act  
18 (42 U.S.C. 402(b));

19 (III) section 202(c) of such Act  
20 (42 U.S.C. 402(c));

21 (IV) section 202(d)(1)(B)(ii) of  
22 such Act (42 U.S.C.  
23 402(d)(1)(B)(ii));

24 (V) section 202(e) of such Act  
25 (42 U.S.C. 402(e));

1 (VI) section 202(f) of such Act  
2 (42 U.S.C. 402(f));

3 (VII) section 202(g) of such Act  
4 (42 U.S.C. 402(g));

5 (VIII) section 202(h) of such Act  
6 (42 U.S.C. 402(h));

7 (IX) section 223(a) of such Act  
8 (42 U.S.C. 423(a));

9 (X) section 227 of such Act (42  
10 U.S.C. 427); or

11 (XI) section 228 of such Act (42  
12 U.S.C. 428).

13 (ii) RAILROAD RETIREMENT BEN-  
14 EFIT.—A benefit payment described in this  
15 clause is a monthly annuity or pension  
16 payment payable (without regard to section  
17 5(a)(ii) of the Railroad Retirement Act of  
18 1974 (45 U.S.C. 231d(a)(ii))) under—

19 (I) section 2(a)(1) of such Act  
20 (45 U.S.C. 231a(a)(1));

21 (II) section 2(c) of such Act (45  
22 U.S.C. 231a(c));

23 (III) section 2(d)(1)(i) of such  
24 Act (45 U.S.C. 231a(d)(1)(i));

1 (IV) section 2(d)(1)(ii) of such  
2 Act (45 U.S.C. 231a(d)(1)(ii));

3 (V) section 2(d)(1)(iii)(C) of such  
4 Act to an adult disabled child (45  
5 U.S.C. 231a(d)(1)(iii)(C));

6 (VI) section 2(d)(1)(iv) of such  
7 Act (45 U.S.C. 231a(d)(1)(iv));

8 (VII) section 2(d)(1)(v) of such  
9 Act (45 U.S.C. 231a(d)(1)(v)); or

10 (VIII) section 7(b)(2) of such Act  
11 (45 U.S.C. 231f(b)(2)) with respect to  
12 any of the benefit payments described  
13 in clause (i) of this subparagraph.

14 (iii) VETERANS BENEFIT.—A benefit  
15 payment described in this clause is a com-  
16 pensation or pension payment payable  
17 under—

18 (I) section 1110, 1117, 1121,  
19 1131, 1141, or 1151 of title 38,  
20 United States Code;

21 (II) section 1310, 1312, 1313,  
22 1315, 1316, or 1318 of title 38,  
23 United States Code;

1 (III) section 1513, 1521, 1533,  
2 1536, 1537, 1541, 1542, or 1562 of  
3 title 38, United States Code; or

4 (IV) section 1805, 1815, or 1821  
5 of title 38, United States Code,

6 to a veteran, surviving spouse, child, or  
7 parent as described in paragraph (2), (3),  
8 (4)(A)(ii), or (5) of section 101, title 38,  
9 United States Code, who received that ben-  
10 efit during any month within the 3 month  
11 period ending with the month which ends  
12 prior to the month that includes the date  
13 of the enactment of this Act.

14 (D) SSI CASH BENEFIT DESCRIBED.—A  
15 SSI cash benefit described in this subparagraph  
16 is a cash benefit payable under section 1611  
17 (other than under subsection (e)(1)(B) of such  
18 section) or 1619(a) of the Social Security Act  
19 (42 U.S.C. 1382, 1382h).

20 (2) COST-OF-LIVING ADJUSTMENT TO PAY-  
21 MENT.—

22 (A) IN GENERAL.—Effective for each 12-  
23 month period referred to in paragraph (1)(B)(i)  
24 in connection with a program referred to in  
25 paragraph (1)(A) (irrespective of whether such

1 period is a non-COLA year) ending with or dur-  
2 ing a calendar year after 2010, the dollar  
3 amount determined under this paragraph shall  
4 be substituted for the dollar amount specified in  
5 paragraph (1)(A). The dollar amount shall be  
6 determined by multiplying the dollar amount  
7 specified in paragraph (1)(A) by the quotient  
8 obtained by dividing—

9 (i) the Consumer Price Index for El-  
10 derly Consumers (published by the Bureau  
11 of Labor Statistics of the Department of  
12 Labor) for the calendar quarter ending  
13 with September preceding the 12-month  
14 period for which the determination is  
15 made, by

16 (ii) such Index for the calendar quar-  
17 ter ending with September 2009.

18 (B) DETERMINATION OF QUARTERLY  
19 INDEX.—For purposes of subparagraph (A), the  
20 Consumer Price Index for Elderly Consumers  
21 for a calendar quarter shall be the arithmetical  
22 mean of such index for the 3 months in such  
23 quarter.

24 (3) REQUIREMENT.—A payment shall be made  
25 under paragraph (1) only to individuals who reside

1 in 1 of the 50 States, the District of Columbia,  
2 Puerto Rico, Guam, the United States Virgin Is-  
3 lands, American Samoa, or the Northern Mariana  
4 Islands. For purposes of the preceding sentence, the  
5 determination of the individual's residence shall be  
6 based on the current address of record under a pro-  
7 gram specified in paragraph (1).

8 (4) NO DOUBLE PAYMENTS.—An individual  
9 shall be paid only 1 payment under this section, re-  
10 gardless of whether the individual is entitled to, or  
11 eligible for, more than 1 benefit or cash payment de-  
12 scribed in paragraph (1).

13 (5) LIMITATION.—A payment under this section  
14 shall not be made—

15 (A) in the case of an individual entitled to  
16 a benefit specified in paragraph (1)(C)(i) or  
17 paragraph (1)(C)(ii)(VIII) if, for the most re-  
18 cent month of such individual's entitlement in  
19 the 3-month period described in paragraph (1),  
20 such individual's benefit under such paragraph  
21 was not payable by reason of subsection (x) or  
22 (y) of section 202 of the Social Security Act (42  
23 U.S.C. 402) or section 1129A of such Act (42  
24 U.S.C. 1320a–8a);

1 (B) in the case of an individual entitled to  
2 a benefit specified in paragraph (1)(C)(iii) if,  
3 for the most recent month of such individual's  
4 entitlement in the 3 month period described in  
5 paragraph (1), such individual's benefit under  
6 such paragraph was not payable, or was re-  
7 duced, by reason of section 1505, 5313, or  
8 5313B of title 38, United States Code;

9 (C) in the case of an individual entitled to  
10 a benefit specified in paragraph (1)(D) if, for  
11 such most recent month, such individual's ben-  
12 efit under such paragraph was not payable by  
13 reason of subsection (e)(1)(A) or (e)(4) of sec-  
14 tion 1611 (42 U.S.C. 1382) or section 1129A  
15 of such Act (42 U.S.C. 1320a-8a); or

16 (D) in the case of any individual whose  
17 date of death occurs before the date on which  
18 the individual is certified under subsection (b)  
19 to receive a payment under this section.

20 (6) TIMING AND MANNER OF PAYMENTS.—The  
21 Secretary of the Treasury shall commence disbursing  
22 payments under this section at the earliest prac-  
23 ticable date but in no event later than 120 days  
24 after the date of the enactment of this Act. The Sec-  
25 retary of the Treasury may disburse any payment

1 electronically to an individual in such manner as if  
2 such payment was a benefit payment or cash benefit  
3 to such individual under the applicable program de-  
4 scribed in subparagraph (C) or (D) of paragraph  
5 (1).

6 (b) IDENTIFICATION OF RECIPIENTS.—The Commis-  
7 sioner of Social Security, the Railroad Retirement Board,  
8 and the Secretary of Veterans Affairs shall certify the in-  
9 dividuals entitled to receive payments under this section  
10 and provide the Secretary of the Treasury with the infor-  
11 mation needed to disburse such payments. A certification  
12 of an individual shall be unaffected by any subsequent de-  
13 termination or redetermination of the individual's entitle-  
14 ment to, or eligibility for, a benefit specified in subpara-  
15 graph (C) or (D) of subsection (a)(1).

16 (c) TREATMENT OF PAYMENTS.—

17 (1) PAYMENT TO BE DISREGARDED FOR PUR-  
18 POSES OF ALL FEDERAL AND FEDERALLY ASSISTED  
19 PROGRAMS.—A payment under subsection (a) shall  
20 not be regarded as income and shall not be regarded  
21 as a resource for the month of receipt and the fol-  
22 lowing 9 months, for purposes of determining the  
23 eligibility of the recipient (or the recipient's spouse  
24 or family) for benefits or assistance, or the amount  
25 or extent of benefits or assistance, under any Fed-

1 eral program or under any State or local program fi-  
2 nanced in whole or in part with Federal funds.

3 (2) PAYMENT NOT CONSIDERED INCOME FOR  
4 PURPOSES OF TAXATION.—A payment under sub-  
5 section (a) shall not be considered as gross income  
6 for purposes of the Internal Revenue Code of 1986.

7 (3) PAYMENTS PROTECTED FROM ASSIGN-  
8 MENT.—The provisions of sections 207 and  
9 1631(d)(1) of the Social Security Act (42 U.S.C.  
10 407, 1383(d)(1)), section 14(a) of the Railroad Re-  
11 tirement Act of 1974 (45 U.S.C. 231m(a)), and sec-  
12 tion 5301 of title 38, United States Code, shall  
13 apply to any payment made under subsection (a) as  
14 if such payment was a benefit payment or cash ben-  
15 efit to such individual under the applicable program  
16 described in subparagraph (C) or (D) of subsection  
17 (a)(1).

18 (4) PAYMENTS SUBJECT TO OFFSET.—Notwith-  
19 standing paragraph (3), for purposes of section  
20 3716 of title 31, United States Code, any payment  
21 made under this section shall not be considered a  
22 benefit payment or cash benefit made under the ap-  
23 plicable program described in subparagraph (C) or  
24 (D) of subsection (a)(1) and all amounts paid shall  
25 be subject to offset to collect delinquent debts.

1 (d) PAYMENT TO REPRESENTATIVE PAYEES AND FI-  
2 DUCIARIES.—

3 (1) IN GENERAL.—In any case in which an in-  
4 dividual who is entitled to a payment under sub-  
5 section (a) and whose benefit payment or cash ben-  
6 efit described in paragraph (1) of that subsection is  
7 paid to a representative payee or fiduciary, the pay-  
8 ment under subsection (a) shall be made to the indi-  
9 vidual's representative payee or fiduciary and the en-  
10 tire payment shall be used only for the benefit of the  
11 individual who is entitled to the payment.

12 (2) APPLICABILITY.—

13 (A) PAYMENT ON THE BASIS OF A TITLE  
14 II OR SSI BENEFIT.—Section 1129(a)(3) of the  
15 Social Security Act (42 U.S.C. 1320a–8(a)(3))  
16 shall apply to any payment made on the basis  
17 of an entitlement to a benefit specified in para-  
18 graph (1)(C)(i) or (1)(D) of subsection (a) in  
19 the same manner as such section applies to a  
20 payment under title II or XVI of such Act.

21 (B) PAYMENT ON THE BASIS OF A RAIL-  
22 ROAD RETIREMENT BENEFIT.—Section 13 of  
23 the Railroad Retirement Act (45 U.S.C. 2311)  
24 shall apply to any payment made on the basis  
25 of an entitlement to a benefit specified in para-

1 graph (1)(C)(ii) of subsection (a) in the same  
2 manner as such section applies to a payment  
3 under such Act.

4 (C) PAYMENT ON THE BASIS OF A VET-  
5 ERANS BENEFIT.—Sections 5502, 6106, and  
6 6108 of title 38, United States Code, shall  
7 apply to any payment made on the basis of an  
8 entitlement to a benefit specified in paragraph  
9 (1)(C)(iii) of subsection (a) in the same manner  
10 as those sections apply to a payment under that  
11 title.

12 (e) APPROPRIATION.—Out of any sums in the Treas-  
13 ury of the United States not otherwise appropriated, the  
14 following sums are appropriated for each fiscal year begin-  
15 ning on or after October 1, 2010, to remain available until  
16 expended, to carry out this section:

17 (1) For the Secretary of the Treasury, such  
18 sums as may be necessary for administrative costs  
19 incurred in carrying out this section.

20 (2) For the Commissioner of Social Security—

21 (A) such sums as may be necessary for  
22 payments to individuals certified by the Com-  
23 missioner of Social Security as entitled to re-  
24 ceive a payment under this section; and

1           (B) such sums as may be certified by the  
2 Commissioner to the Secretary of the Treasury  
3 for the Social Security Administration's Limita-  
4 tion on Administrative Expenses as necessary  
5 for administrative costs incurred in carrying out  
6 this section.

7 (3) For the Railroad Retirement Board—

8           (A) such sums as may be necessary for  
9 payments to individuals certified by the Rail-  
10 road Retirement Board as entitled to receive a  
11 payment under this section; and

12           (B) such sums as may be certified by the  
13 Board to the Secretary of the Treasury for the  
14 Railroad Retirement Board's Limitation on Ad-  
15 ministration as necessary for administrative  
16 costs incurred in carrying out this section.

17 (4)(A) For the Secretary of Veterans Affairs—

18           (i) such sums as may be necessary for  
19 the Compensation and Pensions account,  
20 for payments to individuals certified by the  
21 Secretary of Veterans Affairs as entitled to  
22 receive a payment under this section; and

23           (ii) such sums as may be certified by  
24 the Secretary of Veterans Affairs to the  
25 Secretary of the Treasury for the Informa-

1           tion Systems Technology account and for  
 2           the General Operating Expenses account  
 3           as necessary for administrative costs in-  
 4           curred in carrying out this section.

5           (B) The Department of Veterans Affairs Com-  
 6           pensation and Pensions account shall hereinafter be  
 7           available for payments authorized under subsection  
 8           (a)(1)(A) to individuals entitled to a benefit payment  
 9           described in subsection (a)(1)(C)(iii).

10       **TITLE III—CONTRIBUTION AND**  
 11       **BENEFIT FAIRNESS**

12       **SEC. 301. DETERMINATION OF WAGES AND SELF-EMPLOY-**  
 13       **MENT INCOME ABOVE CONTRIBUTION AND**  
 14       **BENEFIT BASE AFTER 2010.**

15       (a) DETERMINATION OF WAGES ABOVE CONTRIBU-  
 16       TION AND BENEFIT BASE AFTER 2010.—

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

20           (A) in subsection (a)(1), by inserting “the  
 21       applicable percentage (determined under sub-  
 22       section (c)(1)) of” before “that part of the re-  
 23       muneration”; and

24           (B) in subsection (c), by striking “(c) IN-  
 25       CLUDED AND EXCLUDED SERVICE.—For pur-

1           poses of this chapter, if” and inserting the fol-  
 2           lowing:

3           “(c) SPECIAL RULES FOR WAGES AND EMPLOY-  
 4           MENT.—

5           “(1) APPLICABLE PERCENTAGE OF REMUNERA-  
 6           TION IN DETERMINING WAGES.—For purposes of  
 7           paragraph (1) of subsection (a), the applicable per-  
 8           centage for a calendar year, in connection with any  
 9           calendar year referred to in such subparagraph,  
 10          shall be the percentage determined in accordance  
 11          with the following table:

<b>“In the case of:</b>	<b>The ap- plicable per- centage is:</b>
Calendar year 2011 .....	86%
Calendar year 2012 .....	71%
Calendar year 2013 .....	57%
Calendar year 2014 .....	43%
Calendar year 2015 .....	29%
Calendar year 2016 .....	14%
Calendar years after 2016 .....	0%

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

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

17           (A) in subsection (a)(1)(I)—

18           (i) by inserting “and before 2011”  
 19           after “1974”; and

1 (ii) by inserting “and” after the semi-  
2 colon;

3 (B) in subsection (a)(1), by adding at the  
4 end the following:

5 “(J) The applicable percentage (deter-  
6 mined under subsection (I)) of that part of re-  
7 munerat ion which, after remunerat ion (other  
8 than remunerat ion referred to in the succeeding  
9 subsections of this section) equal to the con-  
10 tribution and benefit base (determined under  
11 section 230) with respect to employment has  
12 been paid to an individual during any calendar  
13 year after 2010 with respect to which such con-  
14 tribution and benefit base is effective, is paid to  
15 such individual during such calendar year;”;  
16 and

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

18 “(I) For purposes of subparagraph (J) of subsection  
19 (a)(1), the applicable percentage for a calendar year, in  
20 connection with any calendar year referred to in such sub-  
21 paragraph, shall be the percentage determined in accord-  
22 ance with the following table:

<b>“In the case of:</b>	<b>The ap- plicable per- centage is:</b>
Calendar year 2011 .....	86%

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2012 .....	71%
Calendar year 2013 .....	57%
Calendar year 2014 .....	43%
Calendar year 2015 .....	29%
Calendar year 2016 .....	14%
Calendar years after 2016 .....	0%”.

1           (3) EFFECTIVE DATE.—The amendments made  
 2           by this subsection shall apply with respect to remuneration paid in calendar years after 2010.

4           (b) DETERMINATION OF SELF-EMPLOYMENT INCOME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER  
 5  
 6 2010.—

7           (1) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 1402 of the Internal Revenue Code of 1986 is amended—

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

15                   (B) in subsection (d)—

16                           (i) by striking “(d) EMPLOYEE AND WAGES.—The term” and inserting the following:  
 18

19           “(d) RULES AND DEFINITIONS.—

1           “(1) EMPLOYEE AND WAGES.—The term”; and  
 2                           (ii) by adding at the end the fol-  
 3                           lowing:

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

<b>“In the case of:</b>	<b>The ap- plicable per- centage is:</b>
Calendar year 2011 .....	86%
Calendar year 2012 .....	71%
Calendar year 2013 .....	57%
Calendar year 2014 .....	43%
Calendar year 2015 .....	29%
Calendar year 2016 .....	14%
Calendar years after 2016 .....	0%”.

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

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

16   (i) by striking “or” after the semi-  
 17   colon; and

18   (ii) by inserting “and before 2011”  
 19   after “1974”;

1 (B) in subsection (b)—  
 2 (i) by redesignating paragraph (2) as  
 3 paragraph (3); and  
 4 (ii) by inserting after paragraph (1)  
 5 the following:

6 “(2) For any taxable year beginning in any cal-  
 7 endar year after 2010, an amount equal to the appli-  
 8 cable percentage (as determined under subsection  
 9 (1)) of that part of net earnings from self-employ-  
 10 ment which is in excess of (A) an amount equal to  
 11 the contribution and benefit base (determined under  
 12 section 230) that is effective for such calendar year,  
 13 minus (B) the amount of the wages paid to such in-  
 14 dividual during such taxable year; or”;

15 (C) by adding at the end the following:  
 16 “(1) For purposes of paragraph (2) of subsection (b),  
 17 the applicable percentage for a taxable year beginning in  
 18 any calendar year referred to in such paragraph, shall be  
 19 the percentage determined in accordance with the fol-  
 20 lowing table:

<b>“In the case of:</b>	<b>The ap- plicable per- centage is:</b>
Calendar year 2011 .....	86%
Calendar year 2012 .....	71%
Calendar year 2013 .....	57%
Calendar year 2014 .....	43%
Calendar year 2015 .....	29%

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2016 .....	14%
Calendar years after 2016 .....	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 2011.

4 **SEC. 302. ADDITIONAL BEND POINTS IN SOCIAL SECURITY**  
5                                   **BENEFIT FORMULA.**

6           (a) IN GENERAL.—Section 215(a)(1) of the Social  
7 Security Act (42 U.S.C. 415(a)(1)) is amended—

8                           (1) in subparagraph (A)—

9                                   (A) in clause (ii), by striking “and”;

10                                  (B) in clause (iii), by striking the comma  
11                                  at the end and inserting the following: “but do  
12                                  not exceed the amount established for purposes  
13                                  of this clause by subparagraph (B),”;

14                                  (C) by inserting after clause (iii) the fol-  
15                                  lowing:

16   “(iv) 3 percent of the individual’s av-  
17   erage indexed monthly earnings to the ex-  
18   tent that such earnings exceed the amount  
19   established for purposes of clause (iii) but  
20   do not exceed the amount established for

1 purposes of this clause by subparagraph  
2 (B), and

3 “(v) 0.25 percent of the individual’s  
4 average indexed monthly earnings to the  
5 extent that such earnings exceed the  
6 amount established for purposes of clause  
7 (iv),”.

8 (2) in subparagraph (B)—

9 (A) by redesignating clause (iii) as clause  
10 (v);

11 (B) by inserting after clause (ii) the fol-  
12 lowing:

13 “(iii) For individuals who initially be-  
14 come eligible for old-age or disability insur-  
15 ance benefits, or who die (before becoming  
16 eligible for such benefits), in the calendar  
17 year 2011, the amount established for pur-  
18 poses of clause (iii) and (iv) of subpara-  
19 graph (A) shall be \$8,900 and \$20,833, re-  
20 spectively.

21 “(iv) For individuals who initially be-  
22 come eligible for old-age or disability insur-  
23 ance benefits, or who die (before becoming  
24 eligible for such benefits), in any calendar  
25 year after 2011, each of the amounts so

1 established shall equal the product of the  
2 corresponding amount established with re-  
3 spect to the calendar year 2011 under  
4 clause (iii) of this subparagraph and the  
5 quotient obtained by dividing—

6 “(I) the national average wage  
7 index (as defined in section 209(k)(1))  
8 for the second calendar year preceding  
9 the calendar year for which the deter-  
10 mination is made, by

11 “(II) the national average wage  
12 index (as so defined) for 2009.”; and

13 (C) in clause (v), as so redesignated by  
14 subparagraph (A) of this paragraph, by insert-  
15 ing “and clause (iv)” after “clause (ii)”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply with respect to individuals who ini-  
18 tially become eligible (within the meaning of section  
19 215(a)(3)(B)) for old-age or disability insurance benefits  
20 under title II of the Social Security Act, or who die (before  
21 becoming eligible for such benefits), in any calendar year  
22 after 2010.

1       **TITLE IV—SOCIAL SECURITY**  
2               **BENEFIT PROTECTION**

3       **SEC. 401. POINT OF ORDER AGAINST PRIVATIZATION OF**  
4               **SOCIAL SECURITY OR REDUCTIONS IN SO-**  
5               **CIAL SECURITY BENEFITS.**

6           (a) IN GENERAL.—It shall not be in order in the  
7 House of Representatives or the Senate to consider any  
8 bill, joint resolution, amendment, motion, or conference re-  
9 port if the enactment of that bill or resolution, as reported,  
10 the adoption and enactment of that amendment, or the  
11 enactment of that bill or resolution in the form rec-  
12 ommended in that conference report would have the effect  
13 of—

14               (1) establishing or maintaining a program—

15                       (A) under which benefits under title II of  
16 the Social Security Act are reduced, in whole or  
17 in part, in connection with contributions made  
18 to individual accounts of beneficiaries under  
19 such title established or maintained in the pri-  
20 vate sector or in connection with returns on in-  
21 vestment of amounts credited to such accounts,  
22 or

23                       (B) which provides for administration of  
24 the old-age, survivors, and disability insurance

1           program under such title, in whole or in part,  
2           by any entity in the private sector,

3           (2) otherwise reducing benefits under title II of  
4           the Social Security Act in the case of any present or  
5           future beneficiary below the level of such benefits  
6           that would be in effect without the enactment of  
7           such bill, resolution, or amendment, or

8           (3) providing for investment of amounts held in  
9           the Federal Old-Age and Survivors Insurance Trust  
10          Fund and the Federal Disability Insurance Trust  
11          Fund in any investment vehicle other than interest-  
12          bearing obligations of the United States or obliga-  
13          tions guaranteed as to both principal and interest by  
14          the United States.

15          (b) WAIVER AND APPEAL.—Subsection (a) may be  
16          waived or suspended in the Senate only by an affirmative  
17          vote of three-fifths of the Members, duly chosen and  
18          sworn. An affirmative vote of three-fifths of the Members  
19          of the Senate, duly chosen and sworn, shall be required  
20          in the Senate to sustain an appeal of the ruling of the  
21          Chair on a point of order raised under this section.

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