

111TH CONGRESS
2^D 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.

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

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:

“In the case of:	The ap- plicable per- centage is:
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:

“In the case of:	The ap- plicable per- centage is:
Calendar year 2011	86%

“In the case of:	The applicable percentage is:
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:

“In the case of:	The ap- plicable per- centage is:
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:

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

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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