

116TH CONGRESS  
1ST SESSION

# S. 1132

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, and to provide for Social Security benefit protection.

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## IN THE SENATE OF THE UNITED STATES

APRIL 10, 2019

Ms. HIRONO (for herself, Ms. SMITH, Mrs. GILLIBRAND, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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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, 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 be cited as the  
5 “Protecting and Preserving Social Security Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 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 contribution and benefit base after 2019.

Sec. 202. Inclusion of surplus earnings in Social Security benefit formula.

1           **TITLE I—COST-OF-LIVING**  
2                                   **INCREASES**

3   **SEC. 101. CONSUMER PRICE INDEX FOR ELDERLY CON-**  
4                                   **SUMERS.**

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

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

16           (c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
17 are authorized to be appropriated such sums as are nec-  
18 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)(1) of the Social Se-  
3 curity Act (42 U.S.C. 415(i)(1)) is amended by adding  
4 at the end the following new subparagraph:

5 “(H) the term ‘Consumer Price Index’  
6 means the Consumer Price Index for Elderly  
7 Consumers (CPI–E, as published by the Bu-  
8 reau of Labor Statistics of the Department of  
9 Labor).”.

10 (b) APPLICATION TO PRE-1979 LAW.—

11 (1) IN GENERAL.—Section 215(i)(1) of the So-  
12 cial Security Act as in effect in December 1978, and  
13 as applied in certain cases under the provisions of  
14 such Act as in effect after December 1978, is  
15 amended by adding at the end the following new  
16 subparagraph:

17 “(D) the term ‘Consumer Price Index’  
18 means the Consumer Price Index for Elderly  
19 Consumers (CPI–E, as published by the Bu-  
20 reau of Labor Statistics of the Department of  
21 Labor).”.

22 (2) CONFORMING AMENDMENT.—Section  
23 215(i)(4) of the Social Security Act (42 U.S.C.  
24 415(i)(4)) is amended by inserting “and by section  
25 102 of the Protecting and Preserving Social Security  
26 Act” after “1986”.

1           (c) NO EFFECT ON ADJUSTMENTS UNDER OTHER  
2 LAWS.—Section 215(i) of the Social Security Act (42  
3 U.S.C. 415(i)) is amended by adding at the end the fol-  
4 lowing:

5           “(6) Any provision of law (other than in this  
6 title or title XVI) which provides for adjustment of  
7 an amount based on a change in benefit amounts re-  
8 sulting from a determination made under this sub-  
9 section shall be applied and administered without re-  
10 gard to the amendments made by section 102 of the  
11 Protecting and Preserving Social Security Act.”.

12           (d) NO EFFECT ON ELIGIBILITY FOR SSI AND MED-  
13 ICAID.—Any increase to an individual’s monthly benefit  
14 amount under title II of the Social Security Act as a result  
15 of the amendments made by this section shall not be re-  
16 garded as income or resources for any subsequent month,  
17 for purposes of determining the eligibility of the recipient  
18 (or the recipient’s spouse or family) for benefits or assist-  
19 ance, or the amount or extent of benefits or assistance,  
20 under the Supplemental Security Income program or the  
21 Medicaid program.

22           (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to determinations made with re-  
24 spect to cost-of-living computation quarters (as defined in  
25 section 215(i)(1)(B) of the Social Security Act (42 U.S.C.

1 415(i)(1)(B))) ending on or after September 30 of the sec-  
 2 ond calendar year following the calendar year in which this  
 3 Act is enacted.

4 **TITLE II—CONTRIBUTION AND**  
 5 **BENEFIT FAIRNESS**

6 **SEC. 201. DETERMINATION OF WAGES AND SELF-EMPLOY-**  
 7 **MENT INCOME ABOVE CONTRIBUTION AND**  
 8 **BENEFIT BASE AFTER 2019.**

9 (a) DETERMINATION OF WAGES ABOVE CONTRIBU-  
 10 TION AND BENEFIT BASE AFTER 2019.—

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

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

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

22 “(c) SPECIAL RULES FOR WAGES AND EMPLOY-  
 23 MENT.—

24 “(1) APPLICABLE PERCENTAGE OF REMUNERA-  
 25 TION IN DETERMINING WAGES.—For purposes of

1 paragraph (1) of subsection (a), the applicable per-  
 2 centage for a calendar year, in connection with any  
 3 calendar year referred to in such subparagraph,  
 4 shall be the percentage determined in accordance  
 5 with the following table:

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2020 .....	86
Calendar year 2021 .....	71
Calendar year 2022 .....	57
Calendar year 2023 .....	43
Calendar year 2024 .....	29
Calendar year 2025 .....	14
Calendar years after 2025 .....	0.

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

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

11 (A) in subsection (a)(1)—

12 (i) in subparagraph (I)—

13 (I) by inserting “and before  
 14 2020” after “1974”; and

15 (II) by inserting “and” after the  
 16 semicolon; and

17 (ii) by adding at the end the following  
 18 new subparagraph:

19 “(J) The applicable percentage (deter-  
 20 mined under subsection (I)) of that part of re-  
 21 muneratation which, after remuneratation (other

1 than remuneration referred to in the succeeding  
 2 subsections of this section) equal to the con-  
 3 tribution and benefit base (determined under  
 4 section 230) with respect to employment has  
 5 been paid to an individual during any calendar  
 6 year after 2019 with respect to which such con-  
 7 tribution and benefit base is effective, is paid to  
 8 such individual during such calendar year;”;  
 9 and

10 (B) by adding at the end the following new  
 11 subsection:

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

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2020 .....	86
Calendar year 2021 .....	71
Calendar year 2022 .....	57
Calendar year 2023 .....	43
Calendar year 2024 .....	29
Calendar year 2025 .....	14
Calendar years after 2025 .....	0.”.

17 (3) EFFECTIVE DATE.—The amendments made  
 18 by this subsection shall apply with respect to remu-  
 19 neration paid in calendar years after 2019.

1 (b) DETERMINATION OF SELF-EMPLOYMENT IN-  
2 COME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER  
3 2019.—

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

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

12 (B) in subsection (d)—

13 (i) by striking “(d) EMPLOYEE AND  
14 WAGES.—The term” and inserting the fol-  
15 lowing:

16 “(d) RULES AND DEFINITIONS.—

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

18 (ii) by adding at the end the fol-  
19 lowing:

20 “(2) APPLICABLE PERCENTAGE OF NET EARN-  
21 INGS FROM SELF-EMPLOYMENT IN DETERMINING  
22 SELF-EMPLOYMENT INCOME.—For purposes of para-  
23 graph (1) of subsection (b), the applicable percent-  
24 age for a taxable year beginning in any calendar  
25 year referred to in such paragraph shall be the per-

1       centage determined in accordance with the following  
2       table:

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2020 .....	86
Calendar year 2021 .....	71
Calendar year 2022 .....	57
Calendar year 2023 .....	43
Calendar year 2024 .....	29
Calendar year 2025 .....	14
Calendar years after 2025 .....	0.”.

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

- 6                   (A) in subsection (b)—
- 7                   (i) in paragraph (1)(I)—
- 8                   (I) by striking “or” after the
- 9                   semicolon; and
- 10                  (II) by inserting “and before
- 11                  2020” after “1974”;
- 12                  (ii) by redesignating paragraph (2) as
- 13                  paragraph (3); and
- 14                  (iii) by inserting after paragraph (1)
- 15                  the following new paragraph:

16                  “(2) For any taxable year beginning in any cal-  
17       endar year after 2019, an amount equal to the appli-  
18       cable percentage (as determined under subsection  
19       (1)) of that part of net earnings from self-employ-  
20       ment which is in excess of (A) an amount equal to  
21       the contribution and benefit base (determined under

1 section 230) that is effective for such calendar year,  
 2 minus (B) the amount of the wages paid to such in-  
 3 dividual during such taxable year; or”); and

4 (B) by adding at the end the following:

5 “(1) For purposes of paragraph (2) of subsection (b),  
 6 the applicable percentage for a taxable year beginning in  
 7 any calendar year referred to in such paragraph, shall be  
 8 the percentage determined in accordance with the fol-  
 9 lowing table:

<b>“In the case of:</b>	<b>The applicable percentage is:</b>
Calendar year 2020 .....	86
Calendar year 2021 .....	71
Calendar year 2022 .....	57
Calendar year 2023 .....	43
Calendar year 2024 .....	29
Calendar year 2025 .....	14
Calendar years after 2025 .....	0.”.

10 (3) EFFECTIVE DATE.—The amendments made  
 11 by this subsection shall apply with respect to taxable  
 12 years beginning during or after calendar year 2020.

13 **SEC. 202. INCLUSION OF SURPLUS EARNINGS IN SOCIAL SE-**  
 14 **CURITY BENEFIT FORMULA.**

15 (a) INCLUSION OF SURPLUS AVERAGE INDEXED  
 16 MONTHLY EARNINGS IN DETERMINATION OF PRIMARY  
 17 INSURANCE AMOUNTS.—

18 (1) IN GENERAL.—Section 215(a)(1)(A) of the  
 19 Social Security Act (42 U.S.C. 415(a)(1)(A)) is  
 20 amended—

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

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

6 (C) by inserting after clause (iii) the fol-  
7 lowing new clauses:

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

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

21 (2) BEND POINT FOR SURPLUS EARNINGS.—  
22 Section 215(a)(1)(B) of such Act (42 U.S.C.  
23 415(a)(1)(B)) is amended—

24 (A) in clause (ii), by striking “the amounts  
25 so established” and inserting “the amounts es-

1            established for purposes of clauses (i) and (ii) of  
2            subparagraph (A)”;

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

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

7            (D) by inserting after clause (ii) the fol-  
8            lowing new clauses:

9            “(iii) For individuals who initially become eligible for  
10           old-age or disability insurance benefits, or who die (before  
11           becoming eligible for such benefits), in the calendar year  
12           2020, the amount established for purposes of clause (iv)  
13           of subparagraph (A) shall be \$10,133.

14           “(iv) For individuals who initially become eligible for  
15           old-age or disability insurance benefits, or who die (before  
16           becoming eligible for such benefits), in any calendar year  
17           after 2020, the amount established for purposes of clause  
18           (iv) of subparagraph (A) shall equal the product of the  
19           amount established with respect to the calendar year 2020  
20           under clause (iii) of this subparagraph and the quotient  
21           obtained by dividing—

22           “(I) the national average wage index (as de-  
23           fined in section 209(k)(1)) for the second calendar  
24           year preceding the calendar year for which the de-  
25           termination is made, by

1           “(II) the national average wage index (as so de-  
2 fined) for 2018.”.

3 (b) BASIC AIME AND SURPLUS AIME.—

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

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

7           and

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

14 (2) SURPLUS AIME.—

15           (A) IN GENERAL.—Section 215(b)(1) of  
16 such Act (as amended by paragraph (1)) is  
17 amended—

18           (i) by redesignating subparagraphs

19 (A) and (B) as clauses (i) and (ii), respec-  
20 tively;

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

22           and

23           (iii) by adding at the end the fol-  
24 lowing new subparagraph:

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

4               “(I) the total (after adjustment under para-  
5 graph (3)(B)) of such individual’s surplus earnings  
6 (determined under clause (ii)) for such individual’s  
7 benefit computation years (determined under para-  
8 graph (2)), by

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

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

17               (B) CONFORMING AMENDMENT.—The  
18 heading for section 215(b) of such Act is  
19 amended by striking “Average Indexed Monthly  
20 Earnings” and inserting “Basic Average In-  
21 dexed Monthly Earnings; Surplus Average In-  
22 dexed Monthly Earnings”.

23               (3) ADJUSTMENT OF SURPLUS EARNINGS FOR  
24 PURPOSES OF DETERMINING SURPLUS AIME.—Sec-

1 tion 215(b)(3) of such Act (42 U.S.C. 415(b)(3)) is  
2 amended—

3 (A) in subparagraph (A)—

4 (i) by striking “subparagraph (B)”  
5 and inserting “subparagraph (C)”; and

6 (ii) by inserting “and determination of  
7 basic average indexed monthly income”  
8 after “paragraph (2)”;

9 (B) by redesignating subparagraph (B) as  
10 subparagraph (C); and

11 (C) by inserting after subparagraph (A)  
12 the following new subparagraph:

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

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

21 “(ii) the quotient described in subparagraph  
22 (A)(ii).”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply with respect to individuals who ini-  
25 tially become eligible (within the meaning of section

1 215(a)(3)(B) of the Social Security Act) for old-age or dis-  
2 ability insurance benefits under title II of the Social Secu-  
3 rity Act, or who die (before becoming eligible for such ben-  
4 efits), in any calendar year after 2019.

○