

117TH CONGRESS
1ST SESSION

S. 3101

To amend title II of the Social Security Act to repeal the retirement earnings test, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2021

Mr. SCOTT of South Carolina (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to repeal the retirement earnings test, and for other purposes.

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.**

4 This Act may be cited as the “Senior Citizens’ Free-
5 dom to Work Act of 2021”.

6 **SEC. 2. REPEAL OF THE RETIREMENT EARNINGS TEST.**

7 (a) IN GENERAL.—Subsections (b), (c)(1), (d), (f),
8 (h), (j), and (k) of section 203 of the Social Security Act
9 (42 U.S.C. 403) are repealed.

1 (b) CONFORMING AMENDMENTS.—Section 203 of
 2 such Act (as amended by subsection (a)) is further amend-
 3 ed—

4 (1) by redesignating subsections (c), (e), (g),
 5 and (l) as subsections (b), (c), (d), and (e), respec-
 6 tively;

7 (2) in subsection (b) (as so redesignated)—

8 (A) by striking “NONCOVERED WORK
 9 OUTSIDE THE UNITED STATES OR”;

10 (B) by redesignating paragraphs (2), (3),
 11 and (4) as paragraphs (1), (2), and (3), respec-
 12 tively;

13 (C) by striking “paragraphs (2), (3), and
 14 (4) of”; and

15 (D) by striking the last sentence;

16 (3) in subsection (c) (as so redesignated), by
 17 striking “subsections (c) and (d)” and inserting
 18 “subsection (b)”;

19 (4) in subsection (d) (as so redesignated), by
 20 striking “subsection (c)” each place it appears and
 21 inserting “subsection (b)”;

22 (5) in subsection (e) (as so redesignated), by
 23 striking “subsection (g) or (h)(1)(A)” and inserting
 24 “subsection (d)”.

25 (c) ADDITIONAL CONFORMING AMENDMENTS.—

1 (1) PROVISIONS RELATING TO BENEFITS TER-
 2 MINATED UPON DEPORTATION.—Section 202(n)(1)
 3 of the Social Security Act (42 U.S.C. 402(n)(1)) is
 4 amended by striking “Section 203(b), (c), and (d)”
 5 and inserting “Section 203(b)”.

6 (2) PROVISIONS RELATING TO EXEMPTIONS
 7 FROM REDUCTIONS BASED ON EARLY RETIRE-
 8 MENT.—Section 202(q) of such Act (42 U.S.C.
 9 402(q)) is amended—

10 (A) in paragraph (5)(B), by striking “sec-
 11 tion 203(c)(2)” and inserting “section
 12 203(b)(1)”; and

13 (B) in paragraph (7)(A), by striking “de-
 14 ductions under section 203(b), 203(c)(1),
 15 203(d)(1), or 222(b)” and inserting “deduc-
 16 tions on account of work under section 203 (as
 17 in effect on the day before the date of the en-
 18 actment of the Senior Citizens’ Freedom to
 19 Work Act of 2021) or deductions under section
 20 222(b)”.

21 (3) PROVISIONS RELATING TO EXEMPTIONS
 22 FROM REDUCTIONS BASED ON DISREGARD OF CER-
 23 TAIN ENTITLEMENTS TO CHILD’S INSURANCE BENE-
 24 FITS.—Section 202(s) of such Act (42 U.S.C.
 25 402(s)) is amended—

(A) in paragraph (1), by striking “paragraphs (2), (3), and (4) of section 203(c)” and inserting “paragraphs (1), (2), and (3) of section 203(b)”;

(B) in paragraph (3), by striking “The last sentence of subsection (c) of section 203, subsection (f)(1)(C) of section 203, and subsections” and inserting “Subsections”.

(4) PROVISIONS RELATING TO SUSPENSION OF ALIENS’ BENEFITS.—Section 202(t)(7) of such Act (42 U.S.C. 402(t)(7)) is amended by striking “Subsections (b), (c), and (d)” and inserting “Subsection (b)”.

(5) PROVISIONS RELATING TO REDUCTIONS IN BENEFITS BASED ON MAXIMUM BENEFITS.—Section 203(a)(3)(B)(iii) of such Act (42 U.S.C. 403(a)(3)(B)(iii)) is amended by striking “and subsections (b), (c), and (d)” and inserting “and subsection (b)”.

(6) PROVISIONS RELATING TO PENALTIES FOR MISREPRESENTATIONS CONCERNING EARNINGS FOR PERIODS SUBJECT TO DEDUCTIONS ON ACCOUNT OF WORK.—Section 208(a)(1)(C) of such Act (42 U.S.C. 408(a)(1)(C)) is amended by striking “under section 203(f) of this title for purposes of deductions

from benefits” and inserting “under section 203 (as in effect on the day before the date of the enactment of the Senior Citizens’ Freedom to Work Act of 2021) for purposes of deductions from benefits on account of work”.

(7) PROVISIONS TAKING INTO ACCOUNT EARNINGS IN DETERMINING BENEFIT COMPUTATION YEARS.—Clause (I) in the next to last sentence of section 215(b)(2)(A) of such Act (42 U.S.C. 415(b)(2)(A)) is amended by striking “no earnings as described in section 203(f)(5) in such year” and inserting “no wages, and no net earnings from self-employment (in excess of net loss from self-employment), in such year”.

(8) PROVISIONS RELATING TO ROUNDING OF BENEFITS.—Section 215(g) of such Act (42 U.S.C. 415(g)) is amended by striking “and any deduction under section 203(b)”.

(9) PROVISIONS DEFINING INCOME FOR PURPOSES OF SSI.—Section 1612(a) of such Act (42 U.S.C. 1382a(a)) is amended—

(A) in paragraph (1)(A), by striking “as determined under section 203(f)(5)(C)” and inserting “as defined in the last two sentences of this subsection”; and

1 (B) by adding at the end (after and below
2 paragraph (2)(H)) the following:

3 “For purposes of paragraph (1)(A), the term ‘wages’
4 means wages as defined in section 209, but computed
5 without regard to the limitations as to amounts of remuneration
6 specified in paragraphs (1), (6)(B), (6)(C),
7 (7)(B), and (8) of section 209(a). In making the computation
8 under the preceding sentence, (A) services which do
9 not constitute employment as defined in section 210, performed
10 within the United States by an individual as an
11 employee or performed outside the United States in the
12 active military or naval services of the United States, shall
13 be deemed to be employment as so defined if the remuneration
14 for such services is not includible in computing
15 the individual’s net earnings or net loss from self-employment
16 for purposes of title II, and (B) the term ‘wages’
17 shall be deemed not to include (i) the amount of any payment
18 made to, or on behalf of, an employee or any of his
19 or her dependents (including any amount paid by an employer
20 for insurance or annuities, or into a fund, to provide for any
21 such payment) on account of retirement, or
22 (ii) any payment or series of payments by an employer
23 to an employee or any of his or her dependents upon or
24 after the termination of the employee’s employment relationship
25 because of retirement after attaining an age spec-

1 ified in a plan referred to in section 209(a)(11)(B) or in
 2 a pension plan of the employer.”.

3 (d) REPEAL OF DEDUCTIONS ON ACCOUNT OF WORK
 4 UNDER THE RAILROAD RETIREMENT PROGRAM.—

5 (1) IN GENERAL.—Section 2 of the Railroad
 6 Retirement Act of 1974 (45 U.S.C. 231a) is amend-
 7 ed—

8 (A) by striking subsection (f); and

9 (B) by striking subsection (g)(2) and by
 10 redesignating subsection (g)(1) as subsection
 11 (g).

12 (2) CONFORMING AMENDMENTS.—

13 (A) Section 3(f)(1) of such Act (45 U.S.C.
 14 231b(f)(1)) is amended in the first sentence by
 15 striking “before any reductions under the provi-
 16 sions of section 2(f) of this Act,”.

17 (B) Section 4(g)(2) of such Act (45 U.S.C.
 18 231c(g)(2)) is amended—

19 (i) in clause (i), by striking “shall, be-
 20 fore any deductions under section 2(g) of
 21 this Act,” and inserting “shall”; and

22 (ii) in clause (ii), by striking “any de-
 23 ductions under section 2(g) of this Act and
 24 before”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to taxable years end-
3 ing after December 31, 2021.

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