

118TH CONGRESS  
1ST SESSION

# S. 1174

To amend the Internal Revenue Code of 1986 to increase funding for Social Security and Medicare.

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IN THE SENATE OF THE UNITED STATES

APRIL 18, 2023

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to increase funding for Social Security and Medicare.

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 “Medicare and Social  
5 Security Fair Share Act”.

6 **SEC. 2. MODIFICATION OF PAYROLL TAXES.**

7 (a) WAGE BASE FOR TAXES FUNDING SOCIAL SECU-  
8 RITY.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           3121(a) of the Internal Revenue Code of 1986 is  
3           amended to read as follows:

4           “(1) in the case of taxes imposed by sections  
5           3101(a) and 3111(a), for any calendar year in which  
6           the contribution and benefit base (as determined  
7           under section 230 of the Social Security Act) is less  
8           than \$400,000, so much of the remuneration (other  
9           than remuneration referred to in the succeeding  
10          paragraphs of this subsection) with respect to em-  
11          ployment that has been paid to an individual by an  
12          employer during the calendar year as exceeds such  
13          contribution and benefit base but does not exceed  
14          \$400,000;”.

15          (2) CONFORMING AMENDMENTS.—

16                 (A) SUCCESSOR EMPLOYERS.—Section  
17                 3121 of the Internal Revenue Code of 1986 is  
18                 amended by adding at the end the following  
19                 new subsection:

20                 “(aa) SPECIAL RULES FOR SUCCESSOR EMPLOY-  
21                 ERS.—For purposes of subsection (a)(1), if an employer  
22                 (hereinafter referred to as successor employer) during any  
23                 calendar year acquires substantially all the property used  
24                 in a trade or business of another employer (hereinafter  
25                 referred to as a predecessor), or used in a separate unit

1 of a trade or business of a predecessor, and immediately  
 2 after the acquisition employs in his trade or business an  
 3 individual who immediately prior to the acquisition was  
 4 employed in the trade or business of such predecessor,  
 5 then, for the purpose of determining the amount of remuneration  
 6 paid by the successor employer under such subsection,  
 7 any remuneration (other than remuneration referred to in the  
 8 paragraphs succeeding paragraph (1) of subsection (a)) with respect  
 9 to employment paid (or considered under this subsection as  
 10 having been paid) to such individual by such predecessor during  
 11 such calendar year and prior to such acquisition shall be considered  
 12 as having been paid by such successor employer.”.

14 (B) APPLICATION TO RAILROAD RETIREMENT TAXES.—Clause (i) of section  
 15 3231(e)(2)(A) of such Code is amended to read  
 16 as follows:  
 17

18 “(i) IN GENERAL.—For any calendar  
 19 year in which the applicable base is less  
 20 than \$400,000, the term ‘compensation’  
 21 does not include so much of the remuneration  
 22 paid during any calendar year to an  
 23 individual by an employer for services rendered  
 24 as an employee to such employer as

1           exceeds the applicable base but does not  
2           exceed \$400,000.”.

3           (b) FURTHER ADDITIONAL HOSPITAL INSURANCE  
4 TAX ON VERY HIGH INCOME TAXPAYERS.—

5           (1) IN GENERAL.—Section 3101(b) of the In-  
6           ternal Revenue Code of 1986 is amended by adding  
7           at the end the following new paragraph:

8           “(3) FURTHER ADDITIONAL TAX.—In addition  
9           to the tax imposed by paragraphs (1) and (2) and  
10          the preceding subsection, there is hereby imposed on  
11          every taxpayer (other than a corporation, estate, or  
12          trust) a tax equal to 1.2 percent of wages which are  
13          received with respect to employment (as defined in  
14          section 3121(b)) during the taxable year which are  
15          in excess of—

16                 “(A) in the case of a joint return,  
17                 \$500,000,

18                 “(B) in the case of a married taxpayer (as  
19                 defined in section 7703) filing a separate re-  
20                 turn, 1/2 of the dollar amount determined under  
21                 subparagraph (A), and

22                 “(C) in any other case, \$400,000.”.

23           (2) COLLECTION OF TAX.—Section 3102 of  
24           such Code is amended by adding at the end the fol-  
25           lowing new subsection:

1       “(g) SPECIAL RULES FOR FURTHER ADDITIONAL  
2 TAX.—

3           “(1) IN GENERAL.—In the case of any tax im-  
4 posed by section 3101(b)(3), subsection (a) shall  
5 only apply to the extent to which the taxpayer re-  
6 ceives wages from the employer in excess of  
7 \$400,000, and the employer may disregard the  
8 amount of wages received by such taxpayer’s spouse.

9           “(2) COLLECTION OF AMOUNTS NOT WITH-  
10 HELD.—To the extent that the amount of any tax  
11 imposed by section 3101(b)(3) is not collected by the  
12 employer, such tax shall be paid by the employee.

13           “(3) TAX PAID BY RECIPIENT.—If an employer,  
14 in violation of this chapter, fails to deduct and with-  
15 hold the tax imposed by section 3101(b)(3) and  
16 thereafter the tax is paid by the employee, the tax  
17 so required to be deducted and withheld shall not be  
18 collected from the employer, but this paragraph shall  
19 in no case relieve the employer from liability for any  
20 penalties or additions to tax otherwise applicable in  
21 respect of such failure to deduct and withhold.”.

22           “(c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to remuneration paid, and taxable  
24 years beginning, on or after January 1 of the first cal-

1 endar year that begins after the date of enactment of this  
2 Act.

3 **SEC. 3. MODIFICATION OF TAXES ON SELF-EMPLOYMENT**  
4 **INCOME.**

5 (a) TAX ON NET EARNINGS FROM SELF-EMPLOY-  
6 MENT UP TO CONTRIBUTION AND BENEFIT BASE AND  
7 MORE THAN \$400,000.—Paragraph (1) of section  
8 1402(b) of the Internal Revenue Code of 1986 is amended  
9 to read as follows:

10 “(1) in the case of the tax imposed by section  
11 1401(a) for any taxable year beginning in a calendar  
12 year in which the contribution and benefit base (as  
13 determined under section 230 of the Social Security  
14 Act) is less than \$400,000, the excess (if any) of—

15 “(A) so much of the net earnings from  
16 self-employment which is in excess of—

17 “(i) an amount equal to the contribu-  
18 tion and benefit base (as determined under  
19 section 230 of the Social Security Act)  
20 which is effective for the calendar year in  
21 which such taxable year begins, reduced  
22 (but not below zero) by

23 “(ii) the amount of the wages paid to  
24 such individual during such taxable year,  
25 over

1 “(B) the sum of—

2 “(i) the excess (if any) of—

3 “(I) the net earnings from self-  
4 employment reduced by the excess (if  
5 any) of subparagraph (A)(i) over sub-  
6 paragraph (A)(ii), over

7 “(II) \$400,000, reduced by such  
8 contribution and benefit base, plus

9 “(ii) the amount of the wages paid to  
10 such individual during such taxable year in  
11 excess of such contribution and benefit  
12 base and not in excess of \$400,000; or”.

13 (b) FURTHER ADDITIONAL HOSPITAL INSURANCE  
14 TAX ON VERY HIGH INCOME TAXPAYERS.—

15 (1) IN GENERAL.—Section 1401(b) of the In-  
16 ternal Revenue Code of 1986 is amended by adding  
17 at the end the following new paragraph:

18 “(3) FURTHER ADDITIONAL TAX.—

19 “(A) IN GENERAL.—In addition to the tax  
20 imposed by paragraphs (1) and (2) and the pre-  
21 ceding subsection, there is hereby imposed on  
22 every taxpayer (other than a corporation, es-  
23 tate, or trust) for each taxable year a tax equal  
24 to 1.2 percent of the self-employment income  
25 for such taxable year which is in excess of—

1           “(i) in the case of a joint return,  
2           \$500,000,

3           “(ii) in the case of a married taxpayer  
4           (as defined in section 7703) filing a sepa-  
5           rate return, 1/2 of the dollar amount deter-  
6           mined under subparagraph (A), and

7           “(iii) in any other case, \$400,000.

8           “(B) COORDINATION WITH FICA.—The  
9           amounts under clause (i), (ii), or (iii) (which-  
10          ever is applicable) of subparagraph (A) shall be  
11          reduced (but not below zero) by the amount of  
12          wages taken into account in determining the  
13          tax imposed under section 3101(b)(3) with re-  
14          spect to the taxpayer.”.

15          (2) NO DEDUCTION FOR FURTHER ADDITIONAL  
16          TAX.—

17                 (A) IN GENERAL.—Section 164(f) of such  
18          Code is amended by striking “section  
19          1401(b)(2)” and inserting “paragraphs (2) and  
20          (3) of section 1401(b)”.

21                 (B) DEDUCTION FOR NET EARNINGS FROM  
22          SELF-EMPLOYMENT.—Section 1402(a)(12)(B)  
23          of such Code is amended by striking “the rate  
24          imposed under paragraph (2) of section  
25          1401(b)” and inserting “the rates imposed



1 under paragraphs (2) and (3) of section  
2 1401(b)”.

3 (3) TECHNICAL AMENDMENT.—Section  
4 1401(b)(2)(B) of such Code is amended by striking  
5 “section 3121(b)(2)” and inserting “section  
6 3101(b)(2)”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to net earnings from self-employ-  
9 ment derived, and taxable years beginning, on or after  
10 January 1 of the first calendar year that begins after the  
11 date of enactment of this Act.

12 **SEC. 4. TAXES ON UNEARNED INCOME.**

13 (a) MODIFICATIONS TO TAX ON NET INVESTMENT  
14 INCOME.—

15 (1) IN GENERAL.—Section 1411 of the Internal  
16 Revenue Code of 1986 is amended by adding at the  
17 end the following new subsection:

18 “(f) ADDITIONAL AMOUNT FOR CERTAIN HIGH IN-  
19 COME INDIVIDUALS.—

20 “(1) INCLUSION OF SPECIFIED NET INCOME.—

21 “(A) IN GENERAL.—In the case of any in-  
22 dividual whose modified adjusted gross income  
23 for the taxable year exceeds the high income  
24 threshold amount, subsection (a)(1) shall be ap-  
25 plied by substituting ‘the greater of specified

1 net income or net investment income' for 'net  
2 investment income' in subparagraph (A) there-  
3 of.

4 “(B) PHASE-IN OF INCREASE.—The in-  
5 crease in the tax imposed under subsection  
6 (a)(1) by reason of the application of subpara-  
7 graph (A) (determined before application of  
8 paragraph (2)) shall not exceed the amount  
9 which bears the same ratio to the amount of  
10 such increase (determined without regard to  
11 this paragraph) as—

12 “(i) the excess described in subpara-  
13 graph (A), bears to

14 “(ii) \$100,000 ( $\frac{1}{2}$  such amount in the  
15 case of a married taxpayer (as defined in  
16 section 7703) filing a separate return).

17 “(2) ADDITIONAL RATE BRACKET.—In the case  
18 of any individual whose modified adjusted gross in-  
19 come for the taxable year exceeds the high income  
20 threshold amount, the amount of tax imposed under  
21 subsection (a)(1) shall be increased by an amount  
22 equal to 13.6 percent of the lesser of—

23 “(A) the greater of the specified net in-  
24 come or net investment income for the taxable  
25 year, or

1 “(B) the excess (if any) of—

2 “(i) the modified adjusted gross in-  
3 come for such taxable year, over

4 “(ii) the high income threshold  
5 amount.

6 “(3) DEFINITIONS.—

7 “(A) HIGH INCOME THRESHOLD  
8 AMOUNT.—For purposes of this subsection, the  
9 term ‘high income threshold amount’ means—

10 “(i) except as provided in clause (ii)  
11 or (iii), \$400,000,

12 “(ii) in the case of a taxpayer making  
13 a joint return under section 6013 or a sur-  
14 viving spouse (as defined in section 2(a)),  
15 \$500,000, and

16 “(iii) in the case of a married tax-  
17 payer (as defined in section 7703) filing a  
18 separate return,  $\frac{1}{2}$  of the dollar amount  
19 determined under clause (ii).

20 “(B) SPECIFIED NET INCOME.—For pur-  
21 poses of this section, the term ‘specified net in-  
22 come’ means net investment income deter-  
23 mined—

24 “(i) without regard to the phrase  
25 ‘other than such income which is derived in

1 the ordinary course of a trade or business  
2 not described in paragraph (2),’ in sub-  
3 section (c)(1)(A)(i),

4 “(ii) without regard to the phrase ‘de-  
5 scribed in paragraph (2)’ in subsection  
6 (c)(1)(A)(ii),

7 “(iii) without regard to the phrase  
8 ‘other than property held in a trade or  
9 business not described in paragraph (2)’ in  
10 subsection (c)(1)(A)(iii),

11 “(iv) without regard to paragraphs  
12 (2), (3), and (4) of subsection (c), and

13 “(v) by treating paragraphs (5) and  
14 (6) of section 469(c) (determined without  
15 regard to the phrase ‘To the extent pro-  
16 vided in regulations,’ in such paragraph  
17 (6)) as applying for purposes of subsection  
18 (c) of this section.”.

19 (b) APPLICATION TO TRUSTS AND ESTATES.—Sec-  
20 tion 1411(a)(2) of the Internal Revenue Code of 1986 is  
21 amended—

22 (1) by striking “3.8 percent” and inserting  
23 “17.4 percent”, and

24 (2) in subparagraph (A) thereof, by striking  
25 “undistributed net investment income” and inserting

1 “the greater of undistributed specified net income or  
2 undistributed net investment income”.

3 (c) CLARIFICATIONS WITH RESPECT TO DETER-  
4 MINATION OF NET INVESTMENT INCOME.—

5 (1) CERTAIN EXCEPTIONS.—Section 1411(c)(6)  
6 of the Internal Revenue Code of 1986 is amended to  
7 read as follows:

8 “(6) SPECIAL RULES.—Net investment income  
9 shall not include—

10 “(A) any item taken into account in deter-  
11 mining self-employment income for such taxable  
12 year on which a tax is imposed by section  
13 1401(b),

14 “(B) wages received with respect to em-  
15 ployment on which a tax is imposed under sec-  
16 tion 3101(b) (determined without regard to sec-  
17 tion 3101(c)) or 3201(a) (including amounts  
18 taken into account under section 3121(v)(2)),  
19 and

20 “(C) wages received from the performance  
21 of services earned outside the United States for  
22 a foreign employer.”.

23 (2) NET OPERATING LOSSES NOT TAKEN INTO  
24 ACCOUNT.—Section 1411(c)(1)(B) of such Code is

1 amended by inserting “(other than section 172)”  
2 after “this subtitle”.

3 (3) INCLUSION OF CERTAIN FOREIGN IN-  
4 COME.—

5 (A) IN GENERAL.—Section 1411(c)(1)(A)  
6 of such Code is amended by striking “and” at  
7 the end of clause (ii), by striking “over” at the  
8 end of clause (iii) and inserting “and”, and by  
9 adding at the end the following new clause:

10 “(iv) any amount includible in gross  
11 income under section 951, 951A, 1293, or  
12 1296, over”.

13 (B) PROPER TREATMENT OF CERTAIN  
14 PREVIOUSLY TAXED EARNINGS AND PROFITS.—  
15 Section 1411(c) of such Code is amended by  
16 adding at the end the following new paragraph:

17 “(7) CERTAIN EARNINGS AND PROFITS OF FOR-  
18 EIGN CORPORATIONS.—

19 “(A) IN GENERAL.—Except as otherwise  
20 provided by the Secretary, a distribution of  
21 earnings and profits that is not treated as a  
22 dividend for purposes of chapter 1 by reason of  
23 section 959(d) or section 1293(c) shall not be  
24 treated as a dividend for purposes of this sec-  
25 tion.

1           “(B) REGULATIONS AND OTHER GUID-  
2           ANCE.—The Secretary shall issue regulations or  
3           other guidance providing for the treatment of  
4           distributions by a foreign corporation after De-  
5           cember 31, 2023, of earnings and profits of  
6           such foreign corporation which accrued before  
7           such date, but which have not been previously  
8           subject to tax under this section.”.

9           (d) TRANSFERS OF REVENUES TO OLD-AGE AND  
10          SURVIVORS, DISABILITY INSURANCE, AND FEDERAL HOS-  
11          PITAL INSURANCE TRUST FUNDS.—

12           (1) FEDERAL OLD-AGE AND SURVIVORS TRUST  
13          FUND.—

14           (A) IN GENERAL.—Section 201(a) of the  
15          Social Security Act (42 U.S.C. 401(a)) is  
16          amended—

17                   (i) by striking “100 per centum of”,

18                   (ii) by inserting “100 percent of” be-  
19                   fore “the taxes” each place it appears in  
20                   paragraphs (1), (2), (3), and (4), and

21                   (iii) by striking “and” at the end of  
22                   paragraph (3), by striking the period at  
23                   the end of paragraph (4) and inserting “;  
24                   and”, and by inserting after paragraph (4)  
25                   the following new paragraph:

1           “(5) 71.3 percent of the taxes imposed by sec-  
2           tion 1411 of the Internal Revenue Code of 1986 for  
3           any taxable year beginning after December 31,  
4           2023, as determined by the Secretary of the Treas-  
5           ury or the Secretary’s delegate based on tax returns  
6           under subtitle F of such Code, less the amounts  
7           specified in paragraph (3) of subsection (b).”.

8           (B) CONFORMING AMENDMENT.—The  
9           fourth sentence of section 201(a) of such Act  
10          (42 U.S.C. 401(a)) is amended by striking  
11          “clauses (3) and (4)” each place it appears and  
12          inserting “paragraphs (3), (4), and (5)”.

13          (2) FEDERAL DISABILITY INSURANCE TRUST  
14          FUND.—Section 201(b) of the Social Security Act  
15          (42 U.S.C. 401(b)) is amended—

16                (A) by striking “100 per centum of”, and

17                (B) by striking “and” at the end of para-  
18                graph (1), by striking the period at the end of  
19                paragraph (2) and inserting “; and”, and by in-  
20                serting after paragraph (2) the following new  
21                paragraph:

22                “(3) 10.3 percent of the taxes imposed by sec-  
23                tion 1411 of the Internal Revenue Code of 1986 for  
24                any taxable year beginning after December 31,  
25                2023, as determined by the Secretary of the Treas-



1       ury or the Secretary’s delegate based on tax returns  
2       under subtitle F of such Code.”.

3               (3) FEDERAL HOSPITAL INSURANCE TRUST  
4       FUND.—Section 1817(a) of the Social Security Act  
5       (42 U.S.C. 1395i(a)) is amended—

6               (A) by striking “100 per centum of”,

7               (B) by inserting “100 percent of” before  
8       “the taxes” each place it appears in paragraphs  
9       (1) and (2), and

10              (C) by striking “and” at the end of para-  
11       graph (1), by striking the period at the end of  
12       paragraph (2) and inserting “; and”, and by in-  
13       serting after paragraph (2) the following new  
14       paragraph:

15              “(3) 28.7 percent of the taxes imposed by sec-  
16       tion 1411 of the Internal Revenue Code of 1986 for  
17       any taxable year beginning after December 31,  
18       2023, as determined by the Secretary of the Treas-  
19       ury or the Secretary’s delegate based on tax returns  
20       under subtitle F of such Code.”.

21       (e) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to taxable years beginning after  
23       December 31, 2023.

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