

118TH CONGRESS
1ST SESSION

H. R. 853

To amend titles II and XVIII of the Social Security Act to establish a Social Security Surplus Protection Account in the Federal Old-Age and Survivors Insurance Trust Fund to hold the Social Security surplus and a Medicare Surplus Protection Account in the Federal Hospital Insurance Trust Fund to hold the Medicare surplus, to provide for suspension of investment of amounts held in such Accounts until enactment of legislation providing for investment of the Trust Funds in investment vehicles other than obligations of the United States, and to establish a Social Security and Medicare Part A Investment Commission to make recommendations for alternative forms of investment of the Social Security and Medicare surpluses.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2023

Mr. WALBERG introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend titles II and XVIII of the Social Security Act to establish a Social Security Surplus Protection Account in the Federal Old-Age and Survivors Insurance Trust Fund to hold the Social Security surplus and a Medicare Surplus Protection Account in the Federal Hospital Insurance Trust Fund to hold the Medicare surplus, to provide for suspension of investment of amounts held in such Accounts until enactment of legislation providing for investment of the Trust Funds in investment vehicles other than obligations of the United States, and to estab-

lish a Social Security and Medicare Part A Investment Commission to make recommendations for alternative forms of investment of the Social Security and Medicare surpluses.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Social Security and Medicare Lock-Box Act”.

6 (b) FINDINGS REGARDING SOCIAL SECURITY AND
 7 MEDICARE PART A.—The Congress finds the following:

8 (1)(A) Long-term projections show serious
 9 problems facing the fiscal health of the trust funds
 10 associated with Social Security and Medicare Hos-
 11 pital Insurance.

12 (B) According to the 2020 Annual Report of
 13 the Board of Trustees of the Federal Old-Age and
 14 Survivors Insurance and Federal Disability Insur-
 15 ance Trust Funds, the assets of the combined Fed-
 16 eral Old-Age and Survivors Insurance Trust Fund
 17 and the Federal Disability Insurance Trust Fund
 18 will be exhausted in 2035, and the Disability Insur-
 19 ance Trust Fund alone will be depleted in 2065.

20 (C) According to the 2020 Annual Report of
 21 the Board of Trustees of the Federal Hospital In-

1 surance, the assets of the Federal Hospital Insur-
2 ance Trust Fund will be exhausted in 2026.

3 (2) The Trustees of these trust funds encourage
4 lawmakers to address the long-term financial chal-
5 lenges of the Social Security and Medicare programs
6 as soon as possible.

7 (3) Social Security and Medicare are meant to
8 provide a secure and stable base so that older Amer-
9 icans can live in dignity.

10 (4) Protecting the future surpluses of these
11 trust funds can only occur when meaningful reform
12 has been enacted by Congress. Any path to solvency
13 must include the protection of future surpluses.

14 **SEC. 2. INTERIM PROTECTIONS FOR SOCIAL SECURITY**
15 **TRUST FUND SURPLUS.**

16 Section 201(d) of the Social Security Act (42 U.S.C.
17 402(d)) is amended—

18 (1) by striking “It shall be the duty” and in-
19 serting “(1) Except as provided in paragraph (2), it
20 shall be the duty”;

21 (2) by striking “(1) on original issue at the
22 issue price, or (2)” and inserting “(A) on original
23 issue at the issue price, or (B)”;

24 (3) by adding at the end the following new
25 paragraph:

1 “(2)(A) There is established in the Federal Old-Age
 2 and Survivors Insurance Trust Fund a Social Security
 3 Surplus Protection Account. As soon as practicable after
 4 the end of each fiscal year after fiscal year 2024, the Man-
 5 aging Trustee shall transfer to the Account, from amounts
 6 otherwise available in the Trust Fund, amounts equivalent
 7 to the social security surplus for such fiscal year. Such
 8 amounts shall be transferred from time to time to the Ac-
 9 count, such amounts to be determined on the basis of esti-
 10 mates by the Managing Trustee, and proper adjustments
 11 shall be made in amounts subsequently transferred to the
 12 extent prior estimates were in excess of or were less than
 13 the correct amount.

14 “(B) For purposes of subparagraph (A), the term ‘so-
 15 cial security surplus’ means, for any fiscal year, the excess,
 16 if any, of—

17 “(i) the sum of—

18 “(I) the taxes imposed for such fiscal year
 19 by chapter 21 (other than sections 3101(b) and
 20 3111(b)) of the Internal Revenue Code of 1986
 21 with respect to wages (as defined in section
 22 3121 of such Code) reported to the Secretary of
 23 the Treasury or his delegates pursuant to sub-
 24 title F of such Code, as determined by the Sec-
 25 retary of the Treasury by applying the applica-

1 ble rates of tax under such chapter 21 (other
2 than sections 3101(b) and 3111(b)) to such
3 wages, less the amounts specified in clause (1)
4 of subsection (b) of this section for such fiscal
5 year;

6 “(II) the taxes imposed by chapter 2
7 (other than section 1401(b)) of the Internal
8 Revenue Code of 1986 with respect to self-em-
9 ployment income (as defined in section 1402 of
10 such Code) reported to the Secretary of the
11 Treasury on tax returns under subtitle F of
12 such Code, as determined by the Secretary of
13 the Treasury by applying the applicable rate of
14 tax under such chapter (other than section
15 1401(b)) to such self-employment income, less
16 the amounts specified in clause (2) of sub-
17 section (b) of this section for such fiscal year;
18 and

19 “(III) the amount equivalent to the aggre-
20 gate increase in tax liabilities under chapter 1
21 of the Internal Revenue Code of 1986 which is
22 attributable to the application of sections 86
23 and 871(a)(3) of such Code to payments from
24 the Trust Fund; over

25 “(ii) the sum of—

1 “(I) benefits paid from the Trust Fund
2 during the fiscal year; and

3 “(II) amounts authorized to be made avail-
4 able from the Trust Fund under subsection (g)
5 of this section which are paid from the Trust
6 Fund during such fiscal year.

7 “(C) Notwithstanding paragraph (1), the balance in
8 the Account shall not be available for investment by the
9 Managing Trustee.

10 “(D)(i) The preceding provisions of this paragraph
11 shall not apply with respect to fiscal years commencing
12 with or after the first fiscal year, after fiscal year 2024,
13 for which a provision of Federal law takes effect and au-
14 thorizes, for amounts in the Trust Fund, an investment
15 vehicle other than obligations of the United States.

16 “(ii) A provision of Federal law shall be deemed to
17 meet the requirements of clause (i) if such provision in-
18 cludes the following: ‘This Act shall be considered to be
19 a provision of Federal law meeting the requirements of
20 section 201(d)(2)(D)(i) of the Social Security Act.’”.

21 **SEC. 3. INTERIM PROTECTIONS FOR MEDICARE PART A**
22 **TRUST FUND SURPLUS.**

23 (a) IN GENERAL.—Section 1817(c) of the Social Se-
24 curity Act (42 U.S.C. 1395i(c)) is amended—

1 (1) by striking “It shall be the duty” and in-
2 serting “(1) Except as provided in paragraph (2), it
3 shall be the duty”;

4 (2) by striking “(1) on original issue at the
5 issue price, or (2)” and inserting “(A) on original
6 issue at the issue price, or (B)”;

7 (3) by adding at the end the following new
8 paragraph:

9 “(2)(A) There is established in the Federal Hospital
10 Insurance Trust Fund a Medicare Surplus Protection Ac-
11 count (in this paragraph referred to as the ‘Account’). As
12 soon as practicable after the end of each fiscal year after
13 fiscal year 2024, the Managing Trustee shall transfer to
14 the Account, from amounts otherwise available in the
15 Trust Fund, amounts equivalent to the Medicare part A
16 surplus for such fiscal year. Such amounts shall be trans-
17 ferred from time to time to the Account, such amounts
18 to be determined on the basis of estimates by the Man-
19 aging Trustee, and proper adjustments shall be made in
20 amounts subsequently transferred to the extent prior esti-
21 mates were in excess of or were less than the correct
22 amount.

23 “(B) For purposes of subparagraph (A), the term
24 ‘Medicare part A surplus’ means, for any fiscal year, the
25 excess, if any, of—

1 “(i) the sum of—

2 “(I) the taxes imposed for such fiscal year
3 by sections 3101(b) and 3111(b) of the Internal
4 Revenue Code of 1986 with respect to wages
5 (as defined in section 3121 of such Code) re-
6 ported to the Secretary of the Treasury or his
7 delegates pursuant to subtitle F of such Code,
8 as determined by the Secretary of the Treasury
9 by applying the applicable rates of tax under
10 such sections to such wages; and

11 “(II) the taxes imposed by section 1401(b)
12 of the Internal Revenue Code of 1986 with re-
13 spect to self-employment income (as defined in
14 section 1402 of such Code) reported to the Sec-
15 retary of the Treasury on tax returns under
16 subtitle F of such Code, as determined by the
17 Secretary of the Treasury by applying the ap-
18 plicable rate of tax under such section 1401(b)
19 to such self-employment income; over

20 “(ii) the sum of—

21 “(I) benefits paid from the Trust Fund
22 during the fiscal year; and

23 “(II) amounts authorized to be made avail-
24 able from the Trust Fund under subsection (f)
25 of this section (or section 201(g)) which are

1 paid from the Trust Fund during such fiscal
2 year.

3 “(C) Notwithstanding paragraph (1), the balance in
4 the Account shall not be available for investment by the
5 Managing Trustee.

6 “(D)(i) The preceding provisions of this paragraph
7 shall not apply with respect to fiscal years commencing
8 with or after the first fiscal year, after fiscal year 2024,
9 for which a provision of Federal law takes effect and au-
10 thorizes, for amounts in the Trust Fund, an investment
11 vehicle other than obligations of the United States.

12 “(ii) A provision of Federal law shall be deemed to
13 meet the requirements of clause (i) if such provision in-
14 cludes the following: ‘This Act shall be considered to be
15 a provision of Federal law meeting the requirements of
16 section 1817(c)(2)(D)(i) of the Social Security Act.’”.

17 **SEC. 4. SOCIAL SECURITY AND MEDICARE PART A INVEST-**
18 **MENT COMMISSION.**

19 (a) **ESTABLISHMENT.**—There is established in the ex-
20 ecutive branch of the Government a Social Security and
21 Medicare Part A Investment Commission (in this section
22 referred to as the “Commission”).

23 (b) **STUDY AND REPORT.**—As soon as practicable
24 after the date of the enactment of this Act, the Commis-
25 sion shall conduct a study to ascertain the most effective

1 vehicles for investment of the Federal Old-Age and Sur-
2 vivors Insurance Trust Fund and the Federal Hospital In-
3 surance Trust Fund, other than investment in the form
4 of obligations of the United States. Not later than October
5 1, 2024, the Commission shall submit a report to the
6 President and to each House of the Congress setting forth
7 its recommendations for such vehicles for investment, to-
8 gether with proposals for such administrative and legisla-
9 tive changes as the Commission determines necessary to
10 authorize and implement such recommendations.

11 (c) COMPOSITION.—The Commission shall be com-
12 posed of—

13 (1) 3 members appointed by the President, of
14 whom 1 shall be designated by the President as
15 Chairman;

16 (2) 2 members appointed by the Speaker of the
17 House of Representatives;

18 (3) 1 member appointed by the minority leader
19 of the House of Representatives;

20 (4) 2 members appointed by the majority leader
21 of the Senate; and

22 (5) 1 member appointed by the minority leader
23 of the Senate.

24 (d) MEMBERSHIP REQUIREMENTS.—Members of the
25 Commission shall have substantial experience, training,

1 and expertise in the management of financial investments
2 and pension benefit plans.

3 (e) LENGTH OF APPOINTMENTS.—Members of the
4 Commission shall serve for the life of the Commission. A
5 vacancy on the Commission shall be filled in the manner
6 in which the original appointment was made and shall be
7 subject to any conditions that applied with respect to the
8 original appointment.

9 (f) ADMINISTRATIVE PROVISIONS.—

10 (1) MEETINGS.—The Commission shall meet—

11 (A) not less than once during each month;

12 and

13 (B) at additional times at the call of the
14 Chairman.

15 (2) EXERCISE OF POWERS.—

16 (A) IN GENERAL.—The Commission shall
17 perform the functions and exercise the powers
18 of the Commission on a majority vote of a
19 quorum of the Commission. Three members of
20 the Commission shall constitute a quorum for
21 the transaction of business.

22 (B) VACANCIES.—A vacancy on the Com-
23 mission shall not impair the authority of a
24 quorum of the Commission to perform the func-

1 tions and exercise the powers of the Commis-
2 sion.

3 (g) COMPENSATION.—

4 (1) IN GENERAL.—Each member of the Com-
5 mission who is not an officer or employee of the
6 Federal Government shall be compensated at the
7 daily rate of basic pay for level IV of the Executive
8 Schedule for each day during which such member is
9 engaged in performing a function of the Commis-
10 sion.

11 (2) EXPENSES.—A member of the Commission
12 shall be paid travel, per diem, and other necessary
13 expenses under subchapter I of chapter 57 of title
14 5, United States Code, while traveling away from
15 such member's home or regular place of business in
16 the performance of the duties of the Commission.

17 (h) TERMINATION.—The Commission shall terminate
18 90 days after the date of the submission of its report pur-
19 suant to subsection (b).

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