To amend the Social Security Act and the Internal Revenue Code of 1986 to stop the Congress from spending Social Security surpluses on other Government programs by dedicating those surpluses to personal accounts that can only be used to pay Social Security benefits.

IN THE SENATE OF THE UNITED STATES
JUNE 23, 2005
Mr. DeMint (for himself, Mr. Santorum, Mr. Graham, Mr. Crapo, Mr. Coburn, Mr. Sununu, Mr. Isakson, Mr. Enzi, Mr. Cornyn, Mr. Lott, Mr. Brownback, and Mr. Craig) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL
To amend the Social Security Act and the Internal Revenue Code of 1986 to stop the Congress from spending Social Security surpluses on other Government programs by dedicating those surpluses to personal accounts that can only be used to pay Social Security benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “Stop the Raid on Social Security Act of 2005”.

1  § 1. SHORT TITLE; TABLE OF CONTENTS.
2   (a) Short Title.—This Act may be cited as the “Stop the Raid on Social Security Act of 2005”.
3
4
5
(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec.  1. Short title; table of contents.
Sec.  2. Findings.

TITLE I—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM

Sec. 101. Establishment of the Social Security Personal Retirement Accounts Program.

PART B—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM

"Sec.  251. Definitions.
"Sec.  252. Establishment of Program.
"Sec.  253. Participation in Program.
"Sec.  254. Social security personal retirement accounts.
"Sec.  255. Investment of accounts.
"Sec.  256. Distributions of account balance at retirement.
"Sec.  257. Additional rules relating to disposition of account assets.
"Sec.  258. Administration of the program.

Sec. 102. Annual account statements.

TITLE II—TAX TREATMENT

Sec.  201. Tax treatment of social security personal retirement accounts.

"Sec.  2059. Social security personal retirement accounts.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) President Franklin Roosevelt’s January 17, 1935, message on Social Security declared that, “First, the system adopted, except for the money necessary to initiate it, should be self-sustaining in the sense that funds for the payment of insurance benefits should not come from the proceeds of general taxation.”.

(2) Social Security’s financial integrity is maintained by requiring that benefit payments do not exceed the program’s dedicated tax revenues and the
interest earned on the balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund over the long term.

(3) The separation of Social Security from other budget accounts also serves to protect Social Security benefits from competing against other Federal programs for its funding resources.

(4) Comprehensive reforms should be enacted to—

   (A) fix Social Security permanently;

   (B) ensure that any use of general revenues for the program is temporary; and

   (C) provide for the eventual repayment of any revenue transfers from the general fund to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

TITLE I—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM

SEC. 101. ESTABLISHMENT OF THE SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM.

(a) In General.—Title II of the Social Security Act is amended—
(1) by inserting before section 201 the following:

“PART A—INSURANCE BENEFITS”;

and

(2) by adding at the end of such title the following new part:

“PART B—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM

“DEFINITIONS

“SEC. 251. For purposes of this part—

“(1) PARTICIPATING INDIVIDUAL.—The term ‘participating individual’ has the meaning provided in section 253(a).

“(2) ACCOUNT ASSETS.—The term ‘account assets’ means, with respect to a social security personal retirement account, the total amount transferred to such account, increased by earnings credited under this part and reduced by losses and administrative expenses under this part.

“(3) CERTIFIED ACCOUNT MANAGER.—The term ‘certified account manager’ means a person who is certified under section 258(b).

“(4) BOARD.—The term ‘Board’ means the Social Security Personal Savings Board established under section 258(a).
“(5) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(6) PROGRAM.—The term ‘Program’ means the Social Security Personal Retirement Accounts Program established under this part.

“ESTABLISHMENT OF PROGRAM

“SEC. 252. There is hereby established a Social Security Personal Retirement Accounts Program. The Program shall be governed by regulations which shall be prescribed by the Social Security Personal Savings Board. The Board, the Executive Director appointed by the Board, the Commissioner, and the Secretary of the Treasury shall consult with each other in issuing regulations relating to their respective duties under this part. Such regulations shall provide for appropriate exchange of information to assist them in performing their duties under this part.

“PARTICIPATION IN PROGRAM

“SEC. 253. (a) PARTICIPATING INDIVIDUAL.—For purposes of this part, the term ‘participating individual’ means any individual—

“(1) who is credited under part A with wages paid after December 31, 2005, or self-employment income derived in any taxable year ending after such date,
“(2) who is born on or after January 1, 1950, and

“(3) who has not filed an election to renounce such individual’s status as a participating individual under subsection (b).

“(b) RENUNCIATION OF PARTICIPATION.—

“(1) IN GENERAL.—An individual—

“(A) who has not attained retirement age (as defined in section 216(l)(1)), and

“(B) with respect to whom no distribution has been made from amounts credited to the individual’s social security personal retirement account,

may elect, in such form and manner as shall be prescribed in regulations of the Board, to renounce such individual’s status as a ‘participating individual’ for purposes of this part. Upon completion of the procedures provided for under paragraph (2), any such individual who has made such an election shall not be treated as a participating individual under this part, effective as if such individual had never been a participating individual. The Board shall provide for immediate notification of such election to the Commissioner of Social Security, the Secretary of the Treasury, and the Executive Director.
“(2) Procedure.—The Board shall prescribe by regulation procedures governing the termination of an individual’s status as ‘participating individual’ pursuant to an election under this subsection. Such procedures shall include—

“(A) prompt closing of the individual’s social security personal retirement account established under section 254, and

“(B) prompt transfer to the Federal Old-Age and Survivors Insurance Trust Fund as general receipts of any amount held for investment in such individual’s social security personal retirement account.

“(3) Irrevocability.—An election under this subsection shall be irrevocable.

“SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS

“Sec. 254. (a) Establishment of Accounts.—Under regulations which shall be prescribed by the Board in consultation with the Secretary of the Treasury—

“(1) the Board shall establish a social security personal retirement account for each participating individual (for whom a social security personal retirement account has not otherwise been established under this part) upon initial receipt of a transfer under subsection (b) with respect to such participating individual, and
“(2) in any case described in paragraph (2) of section 257(b), the Board shall establish a social security personal retirement account for the divorced spouse referred to in such paragraph (2).

“(b) Transfers to Social Security Personal Retirement Accounts.—

“(1) In general.—Under regulations which shall be prescribed by the Secretary of the Treasury in consultation with the Board, as soon as practicable during the 1-year period after each calendar year, the Secretary of the Treasury shall transfer to each participating individual’s social security personal retirement account, from amounts held in the Federal Old-Age and Survivors Insurance Trust Fund, amounts equivalent to the personal retirement account deposit with respect to such participating individual for such calendar year.

“(2) Personal retirement account deposit.—

“(A) In general.—For purposes of paragraph (1), the personal retirement account deposit for a calendar year with respect to a participating individual is the product derived by multiplying—

“(i) the sum of—
“(I) the total amount of wages paid to the participating individual during such calendar year on which there was imposed a tax under section 3101(a) of the Internal Revenue Code of 1986, and

“(II) the total amount of self-employment income derived by the participating individual during the taxable year ending during such calendar year on which there was imposed a tax under section 1401(a) of the Internal Revenue Code of 1986, by

“(ii) the surplus percentage for such calendar year determined under subparagraph (B),

increased by deemed interest on each amount transferred for such calendar year for the period commencing with July 1 of such calendar year and the ending on the date on which such amount is transferred, computed at an annual rate equal to the average annual rate of return on investments of amounts in the Government Securities Investment Fund for such calendar year and the preceding 2 calendar years (except
that, for purposes of the first 3 calendar years
for which deemed interest is computed, this
sentence shall be applied by substituting ‘Fed-
eral Old-Age and Survivors Insurance Trust
Fund’ for ‘Government Securities Investment
Fund’) and decreased by the administrative off-
set amount determined under subparagraph
(D).

“(B) Surplus Percentage.—For pur-
poses of subparagraph (A)(ii), the surplus per-
centage for a calendar year is the ratio (ex-
pressed as a percentage) of—

“(i) the net surplus in the Federal
Old-Age and Survivors Insurance Trust
Fund for such year, to

“(ii) the sum of—

“(I) the total amount of wages
paid to participating individuals dur-
ing such calendar year under section
3101(a) of the Internal Revenue Code
of 1986, and

“(II) the total amount of self-em-
ployment income derived during taxable years ending during such cal-
endar year by participating individ-
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uals under section 1401(a) of such
Code.

“(C) Net Trust Fund Surplus.—For purposes of subparagraph (B), the term ‘net surplus’ in connection with the Federal Old-Age and Survivors Insurance Trust Fund for a calendar year means the excess, if any, of—

“(i) the sum of—

“(I) the total amounts which are appropriated to such Trust Fund under clauses (3) and (4) of section 201(a) and attributable to such calendar year, and

“(II) the total amounts which are appropriated to such Trust Fund under section 121 of the Social Security Amendments of 1983 and attributable to such calendar year, over

“(ii) the amount estimated by the Commissioner of Social Security to be the total amount to be paid from such Trust Fund during such calendar year for all purposes authorized by section 201 (other than payments of interest on, and repayments of, loans from the Federal Hospital
Insurance Trust Fund under section 201(l)(1), but reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from such Account).

“(D) Administrative offset amount.—For purposes of subparagraph (A), the administrative offset amount determined with respect to a personal retirement account deposit for a calendar year is the amount equal to the product of—

“(i) the amount of such deposit determined for that year without regard to a reduction under this subparagraph; and

“(ii) the administrative cost percentage attributable to the Program determined by the Board for that year (including reasonable administration fees charged by certified account managers under the Program), but in no event to exceed 30 basis points per year of the assets under management).

“(3) Transition rule.—Notwithstanding paragraph (1), amounts payable to social security personal retirement accounts under paragraph (1)
with respect to the first calendar year described in paragraph (1) ending after the date of the enactment of the Stop the Raid on Social Security Act of 2005 shall be paid by the Secretary of the Treasury as soon as practicable after such Secretary determines that the administrative mechanisms necessary to provide for accurate and efficient payment of such amounts have been established.

“(4) Transfer of general revenues to ensure continued solvency of Federal Old-Age and Survivors Insurance Trust Fund.—Whenever the Secretary of the Treasury makes a transfer under paragraph (1), the Secretary of the Treasury also shall transfer, to the extent necessary, from amounts otherwise available in the general fund of the Treasury, such amounts as are necessary to maintain a 100 percent ratio of assets of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to the annual amount required to pay the full amount of benefits payable under part A for each year occurring during the period that begins with the year in which such transfer is made and ends with 2041.
“(c) REQUIREMENTS FOR ACCOUNTS.—The following requirements shall be met with respect to each social security personal retirement account:

“(1) Amounts transferred to the account consist solely of amounts transferred pursuant to this part.

“(2) In accordance with section 255, the account assets are held for purposes of investment under the Program by a certified account manager designated by (or on behalf of) the participating individual for whom such account is established under the Program.

“(3) Disposition of the account assets is made solely in accordance with sections 256 and 257.

“(d) ACCOUNTING OF RECEIPTS AND DISBURSEMENTS UNDER THE PROGRAM.—The Board shall provide by regulation for an accounting system for purposes of this part—

“(1) which shall be maintained by or under the Executive Director,

“(2) which shall provide for crediting of earnings from, and debiting of losses and administrative expenses from, amounts held in social security personal retirement accounts, and
“(3) under which receipts and disbursements under the Program which are attributable to each account are separately accounted for with respect to such account.

“(e) Correction of Erroneous Transfers.—The Board, in consultation with the Commissioner, shall provide by regulation rules similar to paragraphs (4) through (7) and (9) of section 205(c) and section 205(g) with respect to the correction of erroneous or omitted transfers of amounts to social security personal retirement accounts.

“INVESTMENT OF ACCOUNTS

“Sec. 255. (a) Designation of Certified Account Managers.—Under the Program, a certified account manager shall be designated by or on behalf of each participating individual to hold for investment under this section such individual’s social security personal retirement account assets.

“(b) Procedure for Designation.—Any designation made under subsection (a) shall be made in such form and manner as shall be prescribed in regulations prescribed by the Board. Such regulations shall provide for annual selection periods during which participating individuals may make designations pursuant to subsection (a). Designations made pursuant to subsection (a) during any such period shall be irrevocable for the one-year period
following such period, except that such regulations shall
provide for such interim designations as may be neces-
sitated by the decertification of a certified account man-
ger. Such regulations shall provide for such designations
made by the Board on behalf of a participating individual
in any case in which a timely designation is not made by
the participating individual.

“(c) INVESTMENT.—Any balance held in a partici-
pating individual’s social security personal retirement ac-
count under this part which is not necessary for immediate
withdrawal shall be invested on behalf of such partici-
pating individual by the certified account manager as fol-
lows:

“(1) INVESTMENT IN MARKETABLE GOVERN-
MENT SECURITIES.—In a representative mix of fixed
marketable interest-bearing obligations of the United
States then forming a part of the public debt which
are not due or callable earlier than 4 years after the
date of investment.

“(2) ADDITIONAL AND ALTERNATIVE INVEST-
MENTS.—Beginning with 2008, in such additional
and alternative investment options in broad-based
index funds that are similar to the index fund in-
vestment options available within the Thrift Savings
Fund established under section 8437 of title 5,
United States Code, as the Board determines would be prudent sources of retirement income that could yield greater amounts of income than the investment described in paragraph (1) and a participating individual may elect.

"DISTRIBUTIONS OF ACCOUNT BALANCE AT RETIREMENT"

"Sec. 256. (a) Part A and Social Security Personal Retirement Account Benefits Combined.—Upon the date on which a participating individual becomes entitled to old-age insurance benefits under section 202(a), the Executive Director shall determine the total amount which would (but for this section) be payable as benefits under subsection (a), (b), (c), or (h) of section 202, subsection (e) or (f) of section 202 other than on the basis of disability, or any combination thereof, to any individual who is a participant on the basis of the wages and self-employment income of such individual or any other individual under part A for any month and provide for the following distributions from the individual’s social security personal retirement account (in accordance with regulations which shall be prescribed by the Board):

"(1) Part A benefit provides at least a poverty-level annual benefit.—If such total amount would be sufficient to purchase a minimum annuity, the participating individual shall elect to have the Executive Director provide for the distribu-
tion of the balance in the participating individual’s social security personal retirement account in the form of—

“(A) a lump-sum payment; or

“(B) an annuity which meets the requirements of subsection (b) (other than the requirement that the annuity provides for payments which, on an annual basis, are equal to at least the minimum annuity amount), the terms of which provide for a monthly payment equal to the maximum amount that such account can fund.

“(2) Part A benefit combined with account balance provides at least a poverty-level benefit.—

“(A) In general.—If such total amount when combined with all or a portion of the balance in the participating individual’s social security personal retirement account would be sufficient to purchase a minimum annuity, the Executive Director shall, subject to subpara-graph (B)——

“(i) use such amount of the balance in a participating individual’s social security personal retirement account as is nec-
necessary to purchase an annuity which meets the requirements of subsection (b) (other than the requirement that the annuity provides for payments which, on an annual basis, are equal to at least the minimum annuity amount), the terms of which provide for an annual payment that, when combined with the total amount of annual old-age insurance benefits payable to the participating individual, is equal to the annual amount that a minimum annuity would pay to the individual; and

“(ii) provide for the distribution of any remaining balance in the participating individual’s social security personal retirement account in the form of a lump-sum payment.

“(B) OPTION FOR INCREASED ANNUITY.—A participating individual may elect to have the Executive Director use the balance of the individual’s social security personal retirement account to purchase an annuity which meets the requirements of subsection (b), the terms of which provide for the maximum monthly payment that such account can fund, in lieu of
using only a portion of such balance to pur-
chase an annuity which provides a monthly pay-
ment equal to the amount described in subpara-
graph (A)(i).

“(3) DISTRIBUTION IN EVENT OF FAILURE TO
OBTAIN AT LEAST A POVERTY-LEVEL BENEFIT.—If
such total amount when combined with all of the
balance in the participating individual’s social secu-
ritу personal retirement account would not be suffi-
cient to purchase a minimum annuity, the partici-
pating individual may elect to have the Executive
Director—

“(A) distribute the balance in the partici-
pating individual’s social security personal re-
tirement account in the form of a lump-sum
payment; or

“(B) if such balance is sufficient to pur-
chase an annuity which meets the requirements
of subsection (b) (other than the requirement
that the annuity provides for payments which,
on an annual basis, are equal to at least the
minimum annuity amount), purchase such an
annuity on behalf of the individual.
“(b) **Minimum Annuity Defined.**—For purposes of this subsection, the term ‘minimum annuity’ means an annuity that meets the following requirements:

“(1) The annuity starting date (as defined in section 72(c)(4) of the Internal Revenue Code of 1986) commences on the first day of the month beginning after the date of the purchase of the annuity.

“(2) The terms of the annuity provide for a series of substantially equal annual payments, subject to adjustment as provided in subsection (d), payable monthly to the participating individual during the life of the participating individual which are, on an annual basis, equal to at least the minimum annuity amount.

“(c) **Minimum Annuity Amount.**—For purposes of this subsection, the term ‘minimum annuity amount’ means an amount equal to 100 percent of the poverty line for an individual (determined under the poverty guidelines of the Department of Health and Human Services issued under sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981).

“(d) **Cost of Living Adjustment.**—The terms of any annuity described in subsection (b) shall include provision for increases in the monthly annuity amounts there-
under determined in the same manner and at the same rate as primary insurance amounts are increased under section 215(i).

“(e) Assumptions.—The assumptions under subsection (b) include the probability of survival for persons born in the same year as the participating individual (and the spouse, in the case of a joint annuity), future projection of investment earnings based on investment of the account assets, and expected price inflation. Determinations under this subsection shall be made in accordance with regulations which shall be prescribed by the Board, otherwise using generally accepted actuarial assumptions, except that no differentiation shall be made in such assumptions on the basis of sex, race, health status, or other characteristics other than age. Such assumptions may include, for determinations made prior to 2009, an assumed interest rate reflecting investment earnings of the Federal Old-Age and Survivors Insurance Trust Fund.

“(f) Offset of Part A Benefits.—Notwithstanding any other provision of this title, in the case of a participating individual to which subsection (a)(1) applies, the total amount of monthly old-age insurance benefits payable as benefits under subsection (a), (b), (c), or (h) of section 202, subsection (e) or (f) of section 202 other than on the basis of disability, or any combination
thereof, to such individual determined under subsection (a) shall be reduced so that the amount of such monthly old-age insurance benefits payable to the individual does not exceed the amount equal to the difference between—

“(i) such monthly old-age insurance benefits (determined without regard to a reduction under this subsection); and

“(ii) the ratio of—

“(I) what would have been the monthly annuity payment payable to the individual from an annuity if the individual’s personal retirement account balance had earned the rate of return specified in section 254(b)(2)(A); to

“(II) the expected present value of all future potential benefits payable under section 202 on the basis of the wages or self-employment income of the participating individual (determined as of the date the participating individual becomes entitled to old-age benefits under section 202(a)).
“ADDITIONAL RULES RELATING DISPOSITION OF
ACCOUNT ASSETS

“SEC. 257. (a) SPLITTING OF ACCOUNT ASSETS
UPON DIVORCE AFTER 1 YEAR OF MARRIAGE.—

“(1) IN GENERAL.—Upon the divorce of a par-
ticipating individual for whom a social security per-
sonal retirement account has been established under
this part, from a spouse to whom the participating
individual had been married for at least 1 year, the
Board shall direct the appropriate certified account
manager to transfer—

“(A) from the social security personal re-
tirement account of the participating individual,

“(B) to the social security personal retire-
ment account of the divorced spouse,
an amount equal to one-half of the amount of net
accruals (including earnings) during the time of the
marriage in the social security personal retirement
account of the participating individual.

“(2) TREATMENT OF DIVORCED SPOUSE WHO
IS NOT A PARTICIPATING INDIVIDUAL.—In the case
of a divorced spouse referred to in paragraph (1)
who, as of the time of the divorce, is not a partici-
pating individual and for whom a social security per-
sonal retirement account has not been established—
“(A) the divorced spouse shall be deemed a participating individual for purposes of this part, and

“(B) the Board shall establish a social security personal retirement account for the divorced spouse and shall direct the appropriate certified account manager to perform the such transfer.

“(3) PREEMPTION.—The provisions of this subsection shall supersede any provision of law of any State or political subdivision thereof which is inconsistent with the requirements of this subsection.

“(b) CLOSING OF ACCOUNT UPON THE DEATH OF THE PARTICIPATING INDIVIDUAL.—

“(1) IN GENERAL.—Upon the death of a participating individual, the Executive Director shall close out any remaining balance in the participating individual’s social security personal retirement account. In closing out the account, the Executive Director shall certify to the certified account manager the amount of the account assets, and, upon receipt of such certification, the certified account manager shall transfer from such account an amount equal to such certified amount to the Secretary of the Treasury for subsequent transfer to—
“(A) the social security personal retirement account of the surviving spouse of such participating individual,

“(B) if there is no such surviving spouse, to such other person as may be designated by the participating individual in accordance with regulations which shall be prescribed by the Board, or

“(C) if there is no such designated person, to the estate of such participating individual.

“(2) Treatment of surviving spouse who is not a participating individual.—In the case of a surviving spouse referred to in paragraph (1) who, as of the time of the death of the participating individual, is not a participating individual and for whom a social security personal retirement account has not been established—

“(A) the surviving spouse shall be deemed a participating individual for purposes of this part, and

“(B) the Board shall establish a social security personal retirement account for the surviving spouse and shall direct the appropriate certified account manager to perform the such transfer.
“(c) Closing of Account of Participating Individuals Who Are Ineligible for Benefits Upon Attaining Retirement Age.—In any case in which, as of the date on which a participating individual attains retirement age (as defined in section 216(l)), such individual is not eligible for an old-age insurance benefit under section 202(a), the Commissioner shall so certify to the Executive Director and, upon receipt of such certification, the Executive Director shall close out the participating individual’s social security personal retirement account. In closing out the account, the Executive Director shall certify to the certified account manager the amount of the account assets, and upon receipt of such certification from the Executive Director, the account manager shall transfer from such account an amount equal to such certified amount to the Secretary of the Treasury for subsequent transfer to the participating individual.

“(d) Administrative Expenses.—

“(1) In general.—Under regulations which shall be prescribed by the Board, account assets are available in accordance with section 254(b)(2)(D)(ii) for payment of the reasonable administrative costs of the Program (including reasonable administration fees charged by certified account managers under
the Program), but in no event to exceed 30 basis points per year of the assets under management.

"(2) Temporary authorization of appropriations for startup administrative costs.—
For any such administrative costs that remain after applying paragraph (1) for each of the first five fiscal years that end after the date of the enactment of this part, there are authorized to be appropriated such sums as may be necessary for each of such fiscal years.

"Administration of the program

"Sec. 258. (a) General provisions.—

"(1) Establishment and duties of the Social Security Personal Savings Board.—

"(A) Establishment.—There is established within the Social Security Administration a Social Security Personal Savings Board.

"(B) Number and appointment.—The Board shall be composed of 6 members as follows:

"(i) two members appointed by the President who may not be of the same political party;

"(ii) one member appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the
Committee on Ways and Means of the House of Representatives;

“(iii) one member appointed by the minority leader of the House of Representa-
tives, in consultation with the ranking member of the Committee on Ways and Means of the House of Representatives;

“(iv) one member appointed by the majority leader of the Senate, in consulta-
tion with the Chairman of the Committee on Finance of the Senate; and

“(v) one member appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Finance of the Senate.

“(C) ADVICE AND CONSENT.—Appoint-
ments under this paragraph shall be made by and with the advice and consent of the Senate.

“(D) MEMBERSHIP REQUIREMENTS.—
Members of the Board shall have substantial experience, training, and expertise in the man-
agement of financial investments and pension benefit plans.

“(E) TERMS.—
“(i) IN GENERAL.—Each member shall be appointed for a term of 4 years, except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this section.

“(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed under each clause of subparagraph (B), one of the members appointed under subparagraph (B)(i) (as designated by the President at the time of appointment) and the members appointed under clauses (iii) and (v) of subparagraph (B) shall be appointed for a term of 2 years, and the remaining members shall be appointed for a term of 4 years.

“(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy in the
Board shall be filled in the manner in which the original appointment was made.

“(F) POWERS AND DUTIES OF THE BOARD.—

“(i) IN GENERAL.—The Board shall have powers and duties solely as provided in this part. The Board shall prescribe by regulation the terms of the Social Security Personal Retirement Accounts Program established under this part, including policies for investment under the Program of account assets, and policies for the certification and decertification of account managers under the Program, which shall include consideration of the appropriateness of the marketing materials and plans of such person.

“(ii) BUDGETARY REQUIREMENTS.—The Board shall prepare and submit to the President and to the appropriate committees of Congress an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to the Congress under section
1105 of title 31, United States Code. The Board shall provide for low administrative costs such that, to the extent practicable, overall administrative costs of the Program do not exceed 30 basis points in relation to assets under management under the Program.

“(iii) ADDITIONAL AUTHORITIES OF THE BOARD.—The Board may—

“(I) adopt, alter, and use a seal;
“(II) establish policies with which the Commissioner shall comply under this part;
“(III) appoint and remove the Executive Director, as provided in paragraph (2); and
“(IV) beginning with 2008, provide for such additional and alternative investment options for participating individuals as the Board determines would be prudent sources of retirement income that would yield greater amounts of retirement income than the investment described in section 255(e)(1).
“(iv) Independence of Certified Account Managers.—The policies of the Board may not require a certified account manager to invest or to cause to be invested any account assets in a specific asset or to dispose of or cause to be disposed of any specific asset so held.

“(v) Meetings of the Board.—The Board shall meet at the call of the Chairman or upon the request of a quorum of the Board. The Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board. Four members of the Board shall constitute a quorum for the transaction of business.

“(vi) Compensation of Board Members.—

“(I) In General.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such member is engaged
in performing a function of the Board. Any member who is such an officer or employee shall not suffer any loss of pay or deduction from annual leave on the basis of any time used by such member in performing such a function.

“(II) TRAVEL, PER DIEM, AND EXPENSES.—A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of title 5, United States Code, while traveling away from such member’s home or regular place of business in the performance of the duties of the Board.

“(vii) STANDARD FOR BOARD’S DISCHARGE OF RESPONSIBILITIES.—The members of the Board shall discharge their responsibilities solely in the interest of participating individuals and the Program.

“(viii) ANNUAL REPORT.—The Board shall submit an annual report to the President, to each House of the Congress, and to the Board of Trustees of the Federal
Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund regarding the financial and operating condition of the Program.

“(ix) PUBLIC ACCOUNTANT.—

“(I) DEFINITION.—For purposes of this subparagraph, the term ‘qualified public accountant’ shall have the same meaning as provided in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)).

“(II) ENGAGEMENT.—The Executive Director, in consultation with the Board, shall annually engage, on behalf of all individuals for whom a social security personal retirement account is established under this part, an independent qualified public accountant, who shall conduct an examination of all records maintained in the administration of this part that the public accountant considers necessary.
“(III) Duties.—The public accountant conducting an examination under clause (ii) shall determine whether the records referred to in such clause have been maintained in conformity with generally accepted accounting principles. The public accountant shall transmit to the Board a report on his examination.

“(IV) Reliance on certified actuarial matters.—In making a determination under clause (iii), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states his reliance in the report transmitted to the Board under such clause.

“(2) Executive director.—

“(A) Appointment and removal.—The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board. The Executive Director shall have
substantial experience, training, and expertise
in the management of financial investments and
pension benefit plans. The Board may, with the
concurrence of 4 members of the Board, remove
the Executive Director from office for good
cause shown.

“(B) POWERS AND DUTIES OF EXECUTIVE
DIRECTOR.—The Executive Director shall—

“(i) carry out the policies established
by the Board,

“(ii) administer the provisions of this
part in accordance with the policies of the
Board,

“(iii) in consultation with the Board,
prescribe such regulations (other than reg-
ulations relating to fiduciary responsibil-
ities) as may be necessary for the adminis-
tration of this part, and

“(iv) meet from time to time with the
Board upon request of the Board.

“(C) ADMINISTRATIVE AUTHORITIES OF
EXECUTIVE DIRECTOR.—The Executive Direc-
tor may—
“(i) appoint such personnel as may be necessary to carry out the provisions of this part,

“(ii) subject to approval by the Board, procure the services of experts and consultants under section 3109 of title 5, United States Code,

“(iii) secure directly from any agency or instrumentality of the Federal Government any information which, in the judgment of the Executive Director, is necessary to carry out the provisions of this part and the policies of the Board, and which shall be provided by such agency or instrumentality upon the request of the Executive Director,

“(iv) pay the compensation, per diem, and travel expenses of individuals appointed under clauses (i), (ii), and (v) of this subparagraph, subject to such limits as may be established by the Board,

“(v) accept and use the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized
by section 5703 of title 5, United States Code, including per diem as authorized by section 5702 of such title, and

“(vi) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director’s functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate.

“(3) ROLE OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner shall—

“(A) prescribe such regulations (supplementary to and consistent with the regulations prescribed by the Board and the Executive Director) as may be necessary for carrying out the duties of the Commissioner under this part,

“(B) meet from time to time with, and provide information to, the Board upon request of the Board regarding matters relating to the Social Security Personal Retirement Accounts Program, and
“(C) in consultation with the Board and utilizing available Federal agencies and resources, develop a campaign to educate workers about the Program.

“(b) Certification and Oversight of Account Managers.—

“(1) Certification by the Board.—

“(A) In general.—Any person that is a qualified professional asset manager (as defined in section 8438(a)(8) of title 5, United States Code) may apply to the Board (in such form and manner as shall be provided by the Board by regulation) for certification under this subsection as a certified account manager. In making certification decisions, the Board shall consider the applicant’s general character and fitness, financial history and future earnings prospects, and ability to serve participating individuals under the Program, and such other criteria as the Board deems necessary to carry out this part. Certification of any person under this subsection shall be contingent upon entry into a contractual arrangement between the Board and such person.
“(B) NONDELEGATION REQUIREMENT.—

The authority of the Board to make any determination to deny any application under this subsection may not be delegated by the Board.

“(2) OVERSIGHT OF CERTIFIED ACCOUNT MANAGERS.—

“(A) ROLE OF REGULATORY AGENCIES.—

The Board may enter into cooperative arrangements with Federal and State regulatory agencies identified by the Board as having jurisdiction over persons eligible for certification under this subsection so as to ensure that the provisions of this part are enforced with respect to certified account managers in a manner consistent with and supportive of the requirements of other provisions of Federal law applicable to them. Such Federal regulatory agencies shall cooperate with the Board to the extent that the Board determines that such cooperation is necessary and appropriate to ensure that the provisions of this part are effectively implemented.

“(B) ACCESS TO RECORDS.—The Board may from time to time require any certified account manager to file such reports as the Board may specify by regulation as necessary for the
administration of this part. In prescribing such
regulations, the Board shall minimize the regu-
laritory burden imposed upon certified account
managers while taking into account the benefit
of the information to the Board in carrying out
its functions under this part.

“(3) Revocation of Certification.—The
Board shall provide, in the contractual arrangements
entered into under this subsection with each certified
account manager, for revocation of such person’s
status as a certified account manager upon deter-
mination by the Board of such person’s failure to
comply with the requirements of such contractual ar-
rangements. Such arrangements shall include provi-
sion for notice and opportunity for review of any
such revocation.

“(c) Fiduciary Responsibilities.—

“(1) In General.—Rules similar to the provi-
sions of section 8477 of title 5, United States Code
(relating to fiduciary responsibilities; liability and
penalties) shall apply in connection with account as-
sets, in accordance with regulations which shall be
issued by the Board. The Board shall issue regula-
tions with respect to the investigative authority of
appropriate Federal agencies in cases involving ac-
count assets.

“(2) Exculpatory provisions voided.—Any
provision in an agreement or instrument which pur-
ports to relieve a fiduciary from responsibility or li-
ability for any responsibility, obligation, or duty
under this part shall be void.

“(d) Civil Actions by Board.—If any person fails
to meet any requirement of this part or of any contract
entered into under this part, the Board may bring a civil
action in any district court of the United States within
the jurisdiction of which such person’s assets are located
or in which such person resides or is found, without regard
to the amount in controversy, for appropriate relief to re-
dress the violation or enforce the provisions of this part,
and process in such an action may be served in any dis-
trict.

“(e) Preemption of Inconsistent State Law.—
A provision of this part shall not be construed to preempt
any provision of the law of any State or political subdivi-
sion thereof, or prevent a State or political subdivision
thereof from enacting any provision of law with respect
to the subject matter of this part, except to the extent
that such provision of State law is inconsistent with this
part, and then only to the extent of the inconsistency.”.
(b) CONFORMING AMENDMENT TO PART A.—Section 202 of such Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

“Adjustments Under Part B

“(z) The amount of benefits under subsection (a), (b), (c), or (h), subsection (e) or (f) other than on the basis of disability, or any combination thereof which are otherwise payable under this part shall be subject to adjustment as provided under section 256(f).”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—(1) Section 701(b) of the Social Security Act (42 U.S.C. 901(b)) is amended by striking “title II” and inserting “part A of title II, the Social Security Personal Retirement Accounts Program under part B of title II,”.

(2) Section 702(a)(4) of the Social Security Act (42 U.S.C. 902(a)(4)) is amended by inserting “other than those of the Social Security Personal Savings Board” after “Administration”, and by striking “thereof” and inserting “of the Administration in connection with the exercise of such powers and the discharge of such duties”.

SEC. 102. ANNUAL ACCOUNT STATEMENTS.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended by adding at the end the following new subsection:
“Performance of Social Security Personal Retirement Accounts

“(d) Beginning not later than 1 year after the date of the first deposit is made to an eligible individual’s Social Security personal retirement account, each statement provided to such eligible individual under this section shall include information determined by the Social Security Personal Savings Board as sufficient to fully inform such eligible individual annually of the balance, investment performance, and administrative expenses of such account.”

TITLE II—TAX TREATMENT

SEC. 201. TAX TREATMENT OF SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS.

Section 7701 of the Internal Revenue Code of 1986 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) TAX TREATMENT OF SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS.—All social security personal retirement accounts established under part B of title II of the Social Security Act shall be exempt from taxation under this title.”
SEC. 202. BENEFITS TAXABLE AS SOCIAL SECURITY BENEFITS.

(a) Special Rules Relating to Distribution of Closed Account Under Section 257(d) of Social Security Act.—Section 86(a) of such Code (as amended by paragraph (2)) is amended by adding at the end the following new paragraph:

“(4) Extension of paragraph (2)(B) to distributions of closed account under section 257(d) of Social Security Act.—Notwithstanding any other provision of this subsection, in the case of any amount received pursuant to the closing of an account under section 257(d) of the Social Security Act, paragraph (2)(B) shall apply to such amounts, and for such purposes the amount allocated to the investment in the contract shall be zero.”.

(b) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after the end of the calendar year in which this Act is enacted.

(c) Estate Tax Not To Apply to Assets of Social Security Personal Retirement Accounts.—

(1) In general.—Part IV of subchapter A of chapter 11 of such Code (relating to taxable estate) is amended by adding at the end the following new section:
“SEC. 2059. SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS.

“For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of the assets of a social security personal retirement account transferred from such account by the Secretary under section 257 of the Social Security Act.”.

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

“Sec. 2059. Social security personal retirement accounts.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to decedents dying in or after the calendar year in which this Act is enacted.